R7-11-000-5443-C

Congress of the United States

Washington, DC 20515

April 6th, 2011

Mr. Karl Brooks
Regional Administrator
Environmental Protection Agency
901 North 5th Street
Kansas City, KS 66101

Dear Mr. Brooks,

We are writing to express support for the Environmental Protection Agency (EPA) to delist the Cave Springs Branch from the 303(d) Impaired Streams List and help save approximately 1,400 jobs in Southwest Missouri at the Simmons Food Plant. In November of last year, the Missouri Department of Natural Resources (MDNR) unanimously approved the delisting of Cave Springs, thus avoiding a strict Total Daily Maximum Load requirement affecting the Simmons facility. Should EPA deny this request, the TMDL will impose limits not attainable by any type of commercially available technology, forcing the facility to close down.

The Simmons Southwest City facility processes 2.2 million broilers a week and is one of the largest rendering facilities in the United States. Simmons' waste water is discharged into a ditch which gives the Cave Springs tributary its only water flow, and their wastewater treatment plant already operates under some of the strictest nutrient limitations in Missouri. To meet these limitations, Simmons Foods has continuously worked to improve the water quality in Cave Springs by committing to research, development, design, construction and operation of their state of the art water treatment facility.

These considerations have led MDNR to approve the delisting. MDNR has previously recommended delisting Cave Springs in 2004, and has found no evidence that Simmons' wastewater has led to levels in Cave Springs that exceed narrative water standards. Further, this branch continues into Oklahoma, and the State of Oklahoma's recommendation to remove it from the 303(d) list has already been approved by EPA region VI.

We hope that you respect the Missouri's water quality experts and take immediate action on the delisting of Cave Springs Branch. We appreciate your attention to this important mater, and look forward to your response.

Sincerely,

Roy Blunt, U.S. Senator

Claire McCaskill, U.S. Senator

Billy Long, U.S. Congressman

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

APR 27 2011

OFFICE OF
THE REGIONAL ADMINISTRATOR

The Honorable Roy Blunt
United States Senate
Washington, DC 20515

Dear Senator Blunt:

Thank you for your letter of April 6, 2011, to EPA expressing support to delist the Cave Springs Branch (CSB) from the 303(d) Impaired Streams List. I appreciate your interest in how EPA's implementation of its Clean Water Act (CWA) responsibilities will affect the status of CSB in southwest Missouri. Your inquiry had also asked how water-quality requirements under federal and state law could affect operations of Simmons Poultry, the primary permitted discharger of pollutants into that stream.

As background to EPA's decision to endorse Missouri's decision to de-list CSB and to remove it from the Missouri 303(d) list, let me outline a couple of pertinent aspects about the CWA partnership between EPA and Missouri Department of Natural Resources (MDNR). I wanted to be sure you understood that, while the CWA provides MDNR substantial delegated responsibility to protect water quality, it also requires state decisions to conform to federal authority. For example, MDNR has the authority to issue NPDES permits, as it has to Simmons Poultry, and to prepare a list of impaired streams under CWA section 303(d). But those permits and listing decisions are subject to EPA review and approval in order to achieve Congress' purposes.

Decisions about CSB for over a decade illustrate the interplay between state delegated powers and EPA oversight authority. And EPA's recent decision to approve MDNR's de-listing of CSB reflects the due weight that the CWA requires this agency to give both scientific evidence and state permitting authority.

MDNR first determined CSB was impaired in 1998 and listed it on the 303(d) list. Since then, Simmons Poultry has undertaken some effective water-quality process improvements. Those improvements reflect a productive combination of business innovation and state regulatory influence: MDNR's NPDES permit for Simmons has required steady improvement in the company's treatment of the wastewater that supplies nearly all of CSB's flow. This stream remains a clean-water work in progress, and MDNR has established a TMDL for CSB as a means of complementing process controls required by the company's NPDES permit.

Again, thank you for your letter. If we can be of further assistance, please feel free to contact me at 913-551-7006, or your staff may call LaTonya Sanders, EPA congressional liaison, at 913-551-7555.

Sincerely,

Karl Brooks
Regional Administrator

R7-11-000-6205-C

Congress of the United States

Washington, DC 20515

April 6th, 2011

Mr. Karl Brooks
Regional Administrator
Environmental Protection Agency
901 North 5th Street
Kansas City, KS 66101

Dear Mr. Brooks,

We are writing to express support for the Environmental Protection Agency (EPA) to delist the Cave Springs Branch from the 303(d) Impaired Streams List and help save approximately 1,400 jobs in Southwest Missouri at the Simmons Food Plant. In November of last year, the Missouri Department of Natural Resources (MDNR) unanimously approved the delisting of Cave Springs, thus avoiding a strict Total Daily Maximum Load requirement affecting the Simmons facility. Should EPA deny this request, the TMDL will impose limits not attainable by any type of commercially available technology, forcing the facility to close down.

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These considerations have led MDNR to approve the delisting. MDNR has previously recommended delisting Cave Springs in 2004, and has found no evidence that Simmons' wastewater has led to levels in Cave Springs that exceed narrative water standards. Further, this branch continues into Oklahoma, and the State of Oklahoma's recommendation to remove it from the 303(d) list has already been approved by EPA region VI.

We hope that you respect the Missouri's water quality experts and take immediate action on the delisting of Cave Springs Branch. We appreciate your attention to this important mater, and look forward to your response.

Sincerely,

Roy Blunt, U.S. Senator

Claire McCaskill, U.S. Senator

Billy Long, U.S. Congressman

AL- 11-001-2449

United States Senate

WASHINGTON, DC 20510

July 25, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express significant concerns regarding the Environmental Protection Agency's (EPA) reconsideration of the 2008 National Ambient Air Quality Standards (NAAQS) for ground level ozone. EPA's reconsideration is occurring outside the statutorily directed 5-year review process for NAAQS and without any new scientific basis necessitating a change in the 2008 standard. Moreover, this decision will burden state and local air agencies that, in the current budgetary climate, can hardly cope with existing obligations. Likewise, the economic impact of EPA's proposal, while not determinative in setting NAAQS, are highly concerning, particularly in light of the billions of dollars in new costs that EPA has acknowledged would be imposed on America's manufacturing, energy, industrial, and transportation sectors. In light of EPA's intention to issue the final reconsideration rule by the end of July, the undersigned members of the United States Senate respectfully request that EPA continue its ongoing statutory review of new science, due in 2013, and not finalize the reconsideration at this time.

Regulatory Background

As you are aware, under the Clean Air Act (CAA), EPA establishes "primary" and "secondary" national ambient air quality standards for ground level ozone and other air pollutants. Primary standards are those "the attainment and maintenance of which ... are requisite to protect the public health." 42 U.S.C. 7409. While EPA must allow an "adequate margin of safety" when setting primary standards, the CAA's legislative history indicates that these standards should be set at "the *maximum permissible* ambient air level ... which will protect the health of any [sensitive] group of the population." *See* S.Rep. No. 91–1196, 91st Cong., 2d Sess. 10 (1970) (emphasis added). Secondary standards "specify a level of air quality the attainment and maintenance of which ... is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air." 42 U.S.C. 7409. Under Section 109(d)(1) of the CAA, EPA must complete a "thorough review" of the national ambient air quality standards "at 5-year intervals" and revise as appropriate.

Over time, EPA has tightened the ozone standard from 125 parts per billion (ppb) in the 1970s to 84 ppb in the 1990s. In March 2008, after a review process that took eight years, EPA further revised the primary ozone standard to 75 ppb and made the secondary standard identical to the revised primary standard. *See* 73 Fed. Reg. 16,436. EPA determined in 2008 that the 75 ppb standard was adequate, but not more stringent than necessary, to protect public health. Important decisions by state and local governments, businesses, and citizens have been made since that date in reliance on the 2008 standard.

In January of 2010, less than two years after issuing the 2008 standards, EPA announced its decision to revisit EPA's 2008 decision and to set new NAAQS for ground level ozone. This was a voluntary decision by EPA that was neither ordered by the courts nor mandated by law. Nor does administrative reconsideration of the NAAQS contain the public participation and mandatory review of new science required under the ongoing statutory 5-year review process. EPA's public statements indicate that the finalization of the new ozone standards could occur as soon as this month.

Significant Concerns with EPA's Current Approach

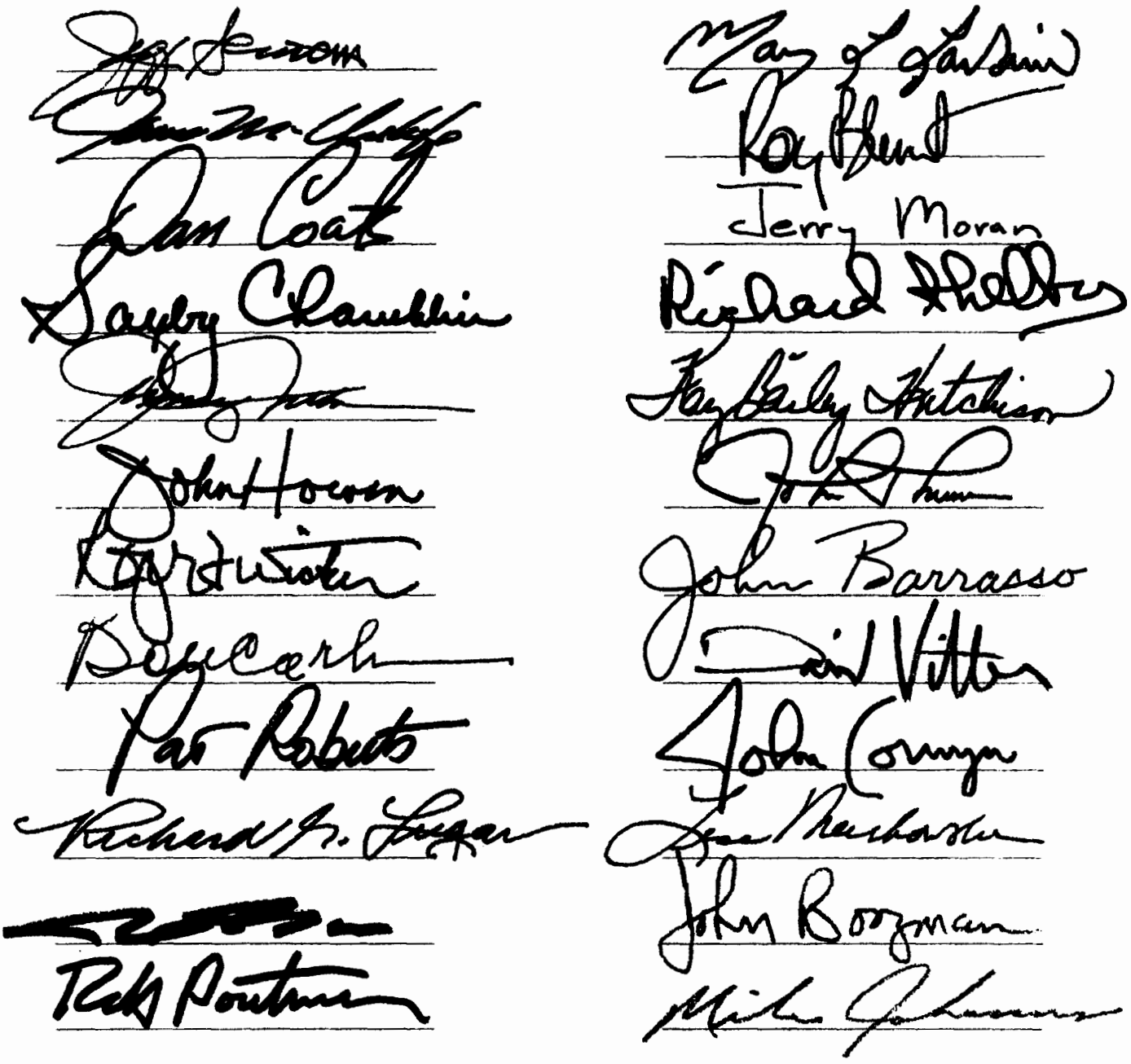
Several aspects of EPA's decision in this regard are troubling. First, the standard selected by EPA may force most large populated areas of the United States into non-attainment status for ground level ozone. In fact, a report by the Congressional Research Service in December 2010 made this point in very clear terms: "At 0.060 ppm [60 parts per billion], 650 counties—virtually every county with a monitor—exceeded the proposed standard." Even EPA's own estimates suggest that the new standard could add $90 billion dollars per year to already high operating costs faced by manufacturers, agriculture, and other sectors. Areas that will not be able to meet EPA's proposed new NAAQS will face increased costs to businesses, restrictions on infrastructure investment, and limits on transportation funding. Recent studies indicate that each affected state could lose tens of thousands of jobs.

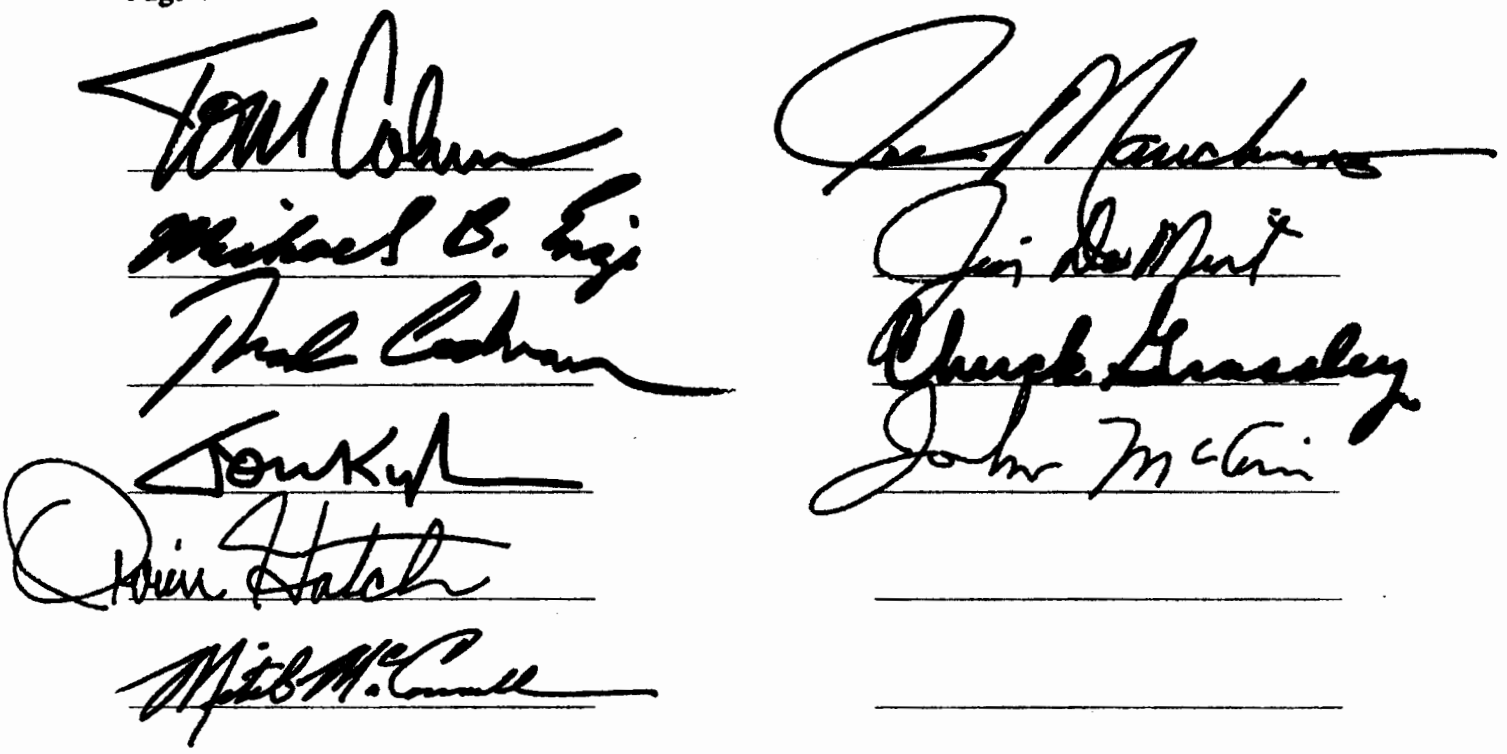
Second, EPA's new ozone standards are being finalized just three years after the agency's original decision. This is at odds with the CAA's statutory NAAQS review process that includes mandatory reviews of new science and affords public participation and comment. EPA is already more than three years into the current statutory five-year review cycle for the 2008 ozone NAAQS. We are concerned that EPA's current ozone rulemaking is at odds with important procedures and safeguards afforded by the Clean Air Act.

Third, the new standards will create significant implementation challenges for the states and local air agencies that oversee nonattainment areas. As you know, most states are facing constrained fiscal situations and meeting existing obligations is already difficult. Many states will likely find it difficult if not impossible to develop and implement new compliance plans for the new standards.

For the foregoing reasons, we would respectfully urge EPA to withdraw the current proposed reconsideration and continue the ongoing 5-year NAAQS review process set forth in the Clean Air Act.

Sincerely,





AL-12-000-6083

JO ANN EMERSON
MEMBER OF CONGRESS
8TH DISTRICT, MISSOURI

COMMITTEE:
APPROPRIATIONS

SUBCOMMITTEES:
CHAIR, FINANCIAL
SERVICES AND GENERAL GOVERNMENT

AGRICULTURE, RURAL DEVELOPMENT,
FOOD AND DRUG ADMINISTRATION,
AND RELATED AGENCIES

LEGISLATIVE BRANCH

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Congress of the United States
House of Representatives
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March 27, 2012

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
USEPA Ariel Rios Building
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Administrator Jackson:

As you know, our state and much of the Missouri and Mississippi River Valleys experienced historic flooding in 2011. Levees were overtopped or blown up, homes and farms were destroyed, and livelihoods were severely impacted. Working with local, state, and federal stakeholders, our region is slowly recovering and rebuilding.

As our levee and drainage system is repaired, we also are looking to the future to ensure that our constituents are protected from the forces of nature. For far too long, the St. Johns Bayou-New Madrid Floodway Project has been promised to the citizens of Southeast Missouri to protect them from the uncontrolled and devastating flooding that has impacted this region of our state since the time it was settled.

Over the past several years working with the Army Corps of Engineers, local sponsors have agreed to – and encouraged - significant modifications to the project. They have provided an unprecedented amount of local mitigation lands that will greatly enhance the environmental aspects, not only of the project area, but the entire region. With input over the years from an interagency team consisting of the Environmental Protection Agency (EPA), the Council on Environmental Quality, the U.S. Fish & Wildlife Service, the U.S. Department of Agriculture and our state's resource agencies, project sponsors have worked to ensure the highest level of environmental protection and enhancement, while still providing the needed flood protection.

Additionally, the project sponsors are currently working with a blue-ribbon panel of nationally renowned experts, retained by the Corps, to review and provide further changes to the project. Battelle, a non-profit, science and technology organization, is overseeing this Independent External Peer Review (IEPR) panel, which is finalizing a report to ensure that the project is environmentally sound and scientifically accurate.

As part of a new Environmental Impact Statement for the St. Johns-New Madrid Project, the Corps and EPA, Region 7 have been working on an environmental mapping and assessment (EMAP) survey report to determine the amount and condition of wetlands in the project area. After conducting an initial EMAP survey, Region 7 made an initial determination that the project area contained more than **118,000 acres** of "farmed wetlands." After further discussions with the Corps and reassessment, Region 7 adjusted the amount of farmed wetlands to **5,000 acres**.

Frankly, whether EPA's assessment concludes 118,000 acres or 5,000 acres, we are troubled by this assessment since the Natural Resource Conservation Service (NRCS) has long determined **520 acres** of farmed wetlands in the project area – a number significantly lower that the acreage estimates put forward by EPA Region 7.

In light of EPA's findings concerning wetlands in the project area, we would ask for your assistance in responding to our concerns and questions listed below.

1.) What is the definition of the term "wetlands in agricultural areas" in the analysis and how is this definition different than what is regulated under Section 404 of the Clean Water Act?

2.) If EPA's definition does not indicate jurisdiction, why signify these areas as "wetlands in agricultural areas" and not the term prior converted cropland?

3.) If your analysis concludes the majority of agricultural lands are "wetlands in agricultural areas", will this require NRCS to change their prior converted cropland call and will it also require the Corps to change the current method in which farmland in the lower Mississippi Valley is regulated?

4.) How is the term "wetlands in agricultural areas" regulated pursuant to existing wetland laws, policies, and executive orders?

5.) Is the EPA proposing that project impacts to "wetlands in agricultural areas" be mitigated in any way? If so, what statute, law, or policy requires mitigation?

6.) Does EPA typically require compensatory mitigation for impacts to prior converted cropland? If so, what statute, law, or policy requires mitigation?

7.) Please explain the definitions and revisions to acreages from approximately 118,000 acres of "farmed wetlands" to approximately 5,000 acres of farmed wetlands to the current definition of "wetlands in agricultural areas" and associated estimates.

The St. Johns Bayou-New Madrid Project is vitally important to controlling flood waters along the Mississippi River in Southeast Missouri. We encourage EPA Region 7 to work closely with the Corps of Engineers. And we hope you can provide assurances that EPA's intent is not to delay or obstruct the significant progress that has been made to

ensure that this project is environmentally sound while providing the needed relief and security from flooding for our constituents.

We appreciate your attention to this matter and look forward to your responses to the above questions.

Sincerely,

JO ANN EMERSON
Member of Congress

ROY BLUNT
United States Senator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

APR 20 2012

OFFICE OF
THE REGIONAL ADMINISTRATOR

The Honorable Roy Blunt
United States Senate
Washington, DC 20510

Dear Senator Blunt:

Thank you for your letter of March 27, 2012, to the U.S. Environmental Protection Agency's Administrator Lisa P. Jackson, regarding EPA's role in the Saint John's Bayou/New Madrid Floodway (SJB/NMF) project. I have been asked to respond to your inquiry and I appreciate your interest in this very significant project.

I am actively engaged in making sure that EPA Region 7 fulfills its statutory and regulatory responsibilities to assist the Corps of Engineers. Toward that end, I am meeting with Colonel Vernie Reichling in Kansas City, Kansas, on April 23, 2012, to confirm our two agencies' path forward on finalization of a Draft Environmental Impact Statement and other related activities connected to the SJB/NMF project.

The EPA's staff have actively participated on the Interagency Review Team. Comments by the Independent External Peer Review Panel have shaped this Agency's work. The COE February 2010 Work Plan identified the need for a full wetlands assessment. The COE defined its objective as identifying and distinguishing between areas with wetland characteristics in cropped (agricultural) and non-cropped (naturally vegetated) land. Interagency wetlands scientists agreed to this objective prior to conducting the wetlands assessment.

An interagency team of scientists, including staff from both the EPA and COE, designed and implemented the wetlands assessment. The cooperating agencies' first objective was to fully identify all wetlands in the project area without consideration of statutory or regulatory requirements. This interagency collaborative effort has fulfilled the EPA objectives of adherence to sound science, transparency and the rule of law.

Your letter asked several specific questions and raised a couple of concerns about EPA's work delaying or obstructing efforts by several federal agencies to improve the proposal's environmental impacts. Let me answer your questions in a way that relates the EPA's duties to those of other involved agencies.

Your letter asked about the definition of wetlands and the number of wetland acres identified by the wetlands assessment. The wetlands assessment report uses the term "wetlands in agriculture lands" (crop areas) to identify the presence of two or more wetland delineation parameters, as defined in the COE wetlands delineation manuals. EPA discussed the use of this term in the wetlands assessment report with COE personnel and received no objection. This term is neither statutory nor regulatory, but was selected

by the team to fulfill the work plan's objective that the assessment distinguishes between cropped and non-cropped wetlands.

Your letter notes several different numbers in the assessment related to wetlands acres in the SJB/NMF project area. The figures reflect different agencies' responsibilities. Further clarification may assist your interpretation of both the wetlands assessment and EPA's distinct duties.

The wetlands assessment acreage estimates serve two related but distinct statutory/regulatory purposes. First, Section 404 of the Clean Water Act obligates the COE to make a wetlands jurisdictional determination. As outlined by the 2007 COE and EPA Coordination Agreement, the COE conducts this jurisdictional analysis. To do so, the COE evaluates the wetlands in both crop and non-crop lands to determine which meet the jurisdictional definition. The COE may determine there are no additional jurisdictional wetlands in crop lands beyond the 520 acres already determined as jurisdictional by the Natural Resources Conservation Services, or they may determine that there are additional acres in crop land that are jurisdictional. The 520 acres identified previously by the NRCS as farmed wetlands is a jurisdictional determination made by NRCS under its statutory authority, which is distinct from that governing the COE. The interagency SJB/NMF wetlands assessment does not require the NRCS or COE to change their practices. The EPA recognizes that the COE typically uses the NRCS determination.

Second, the COE uses the wetlands assessment acreage estimates in its National Environmental Policy Act alternatives analysis, which is conducted separately from the COE's Clean Water Act Section 404 jurisdictional determination. Under the NEPA process, the wetland acreage numbers, as well as other ecological measures, economic and social data, will be used to determine the impacts of alternatives ultimately evaluated by the COE.

I assure you the EPA intends to work closely with the COE and other interested public and private parties as the SJB/NMF project proceeds through the NEPA process. This agency has always conducted its work by adhering to core principles of sound science, transparency, and the rule of law. I am available to discuss our role in this very significant project if you need further information or clarification.

Again, thank you for your letter. If we can be of any further assistance, please feel free to contact me at 913-551-7006, or your staff may call LaTonya Sanders, Congressional Liaison, at 913-551-7555.

Sincerely,

Karl Brooks

A-12-001-1704

United States Senate

WASHINGTON, DC 20510

June 28, 2012

The Honorable Barack Obama
President
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Obama

We are writing to urge that you issue an Executive Order exercising your authority under Clean Air Act section 112(i)(4) to grant an additional two years for all utilities to comply with the Mercury and Air Toxics Standards (MATS) regulation. If states also use their authority to grant one additional year, utilities will have the full six years the Clean Air Act allows to install new pollution control equipment on coal and oil-fired power plants.

Many utilities have said that using the Clean Air Act's full six-year compliance timeline will make implementation of the rule more reasonable, practical and cost effective. It will allow more time to order and install equipment, to give the required public notice and to apply for necessary permits. It will also minimize the possibility of disruptions in reliable electric service. The certainty of a full six years for implementation will spread out costs and minimize increases on electric rates. It will improve the ability of utilities to develop more realistic implementation schedules to ensure that an adequate supply of pollution control technology is available from manufacturers.

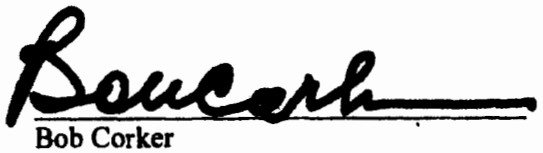
In short, exercising your presidential authority under the Clean Air Act to provide an additional two years for implementation of this rule will help citizens of our States achieve the health benefits of clean air at the lowest possible cost and with the least possibility of disruption of electric service.

Thank you for your attention to this matter.

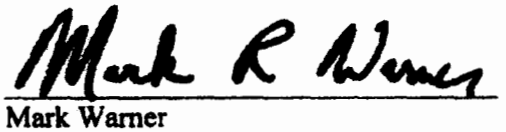
Sincerely,

Lamar Alexander
Lamar Alexander
United States Senator

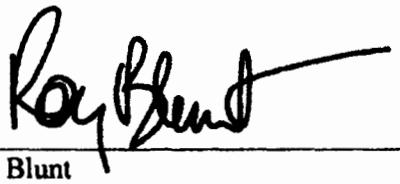
Mark Pryor
Mark Pryor
United States Senator



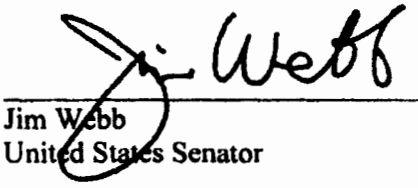
Bob Corker
United States Senator



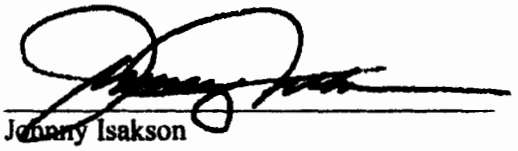
Mark Warner
United States Senator



Roy Blunt
United States Senator



Jim Webb
United States Senator

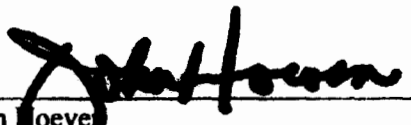


Johnny Isakson
United States Senator

Claire McCaskill
United States Senator

Richard Burr
United States Senator

Mary L. Landrieu
United States Senator



John Boeve
United States Senator

AL-12-002-0644

United States Senate

WASHINGTON, DC 20510

December 14, 2012

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

We write to express our concerns regarding the Environmental Protection Agency's (EPA) proposal for more stringent fine particulate matter ($PM_{2.5}$) air quality standards. The proposed $PM_{2.5}$ Rule would impose significant new economic burdens on many communities, hurting workers and their families just as they are struggling to overcome difficult economic times. Moreover, we are concerned, especially in light of the substantial scientific uncertainties involved, that EPA has agreed to finalize the $PM_{2.5}$ Rule in an unreasonably short amount of time.

We note at the outset that EPA data shows this country is breathing the cleanest air in thirty years. Efforts to implement current $PM_{2.5}$ standards are not only ongoing - they continue to show results. Tremendous work at the local, state, and federal levels has cut $PM_{2.5}$ emissions by 1.1 million tons per year since 2000, a 55% reduction. Air quality has shown commensurate improvement, with $PM_{2.5}$ concentrations dropping an average of 27%. States and EPA should be commended for this success under the current standards. However, the Agency's proposal to lower those standards threatens numerous counties with non-attainment designation.

As you are aware, counties designated as non-attainment areas face immediate economic consequences. Business expansion in, or even near, non-attainment areas is subject to restrictive permitting requirements with enhanced EPA oversight. New or upgraded businesses operations must include, regardless of cost, the most effective $PM_{2.5}$ emissions reduction technology and must offset $PM_{2.5}$ emissions by funding costly reductions at existing facilities. If no cost-effective offsets can be found, the new project cannot proceed.

Existing facilities already located in non-attainment areas are also impacted, as they often must install controls more restrictive than required outside a non-attainment area. Furthermore, federal funds for transportation projects in non-attainment areas are cut off unless the state can show such projects do not increase $PM_{2.5}$ emissions. In total, given the additional compliance costs, complex permitting requirements, and transportation infrastructure impacts, businesses are far less likely to invest in a non-attainment area.

The stigma associated with being a non-attainment area has broad consequences. Those living in non-attainment areas see significant hurdles to new, much needed jobs. Municipal budgets are strained by lower tax revenues, reducing the funds available to pay for schools and local infrastructure. Ultimately, a non-attainment designation undermines our states' ability to build their way out of the recession. While EPA does not consider these economic impacts when setting $PM_{2.5}$ standards, the executive branch should not be unmindful of the hardship its regulations cause. In that regard, President Obama has directed agencies under Executive Order 13563 to tailor regulations to impose the least burden on society. However, such burden could be widely imposed by the proposed $PM_{2.5}$ Rule.

According to EPA's own analysis, a significant number of counties with air quality meeting the current annual 15 $\mu g/m^3$ $PM_{2.5}$ standard will fall short of EPA's proposed stringent range of 13 $\mu g/m^3$ to 12 $\mu g/m^3$. That amount will dramatically increase if the Agency selects the even lower 11 $\mu g/m^3$ level for which it has requested comments. EPA's designation process and implementation proposals could spread these effects even further, causing hundreds of counties to face nonattainment designation under EPA's proposed rule.

Moreover, the adverse consequences do not end once an area eventually meets the proposed stringent $PM_{2.5}$ standards. Instead, areas that achieve the standards must petition EPA for redesignation to "attainment" and EPA approval of a new, complex plan that lists specific mandatory continuing measures.

We are aware that stakeholders have noted significant uncertainties in the science underlying the proposed $PM_{2.5}$ Rule. There are concerns that supporting studies rely on conclusions affected by confounding variables or have very weak statistical associations. The Agency should more closely assess these uncertainties before lowering $PM_{2.5}$ standards.

Finally, we are concerned that--to resolve a case brought by environmental groups--EPA agreed to review public comments and produce a final $PM_{2.5}$ Rule in a mere six months, approximately half the amount of time EPA's own sworn statement claimed was necessary for a rule of this complexity. Given the nature of this rulemaking, as well as the significant economic impact and scientific uncertainties, we question whether it is reasonable for EPA to finalize this rule on such an abbreviated timeline.

EPA should not rush at this time toward imposing more regulatory burdens on struggling areas. Instead, we encourage the Agency to work with states and local communities to continue the downward trend in $PM_{2.5}$ emissions through maintaining the current $PM_{2.5}$ standards that states are still in the process of implementing.

Sincerely,

AL-14-001-3080

ROY BLUNT
MISSOURI

United States Senate

WASHINGTON, DC 20510

July 31, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Mail Code 1101A
1200 Pennsylvania Ave, NW
Washington, DC 20610

Dear Administrator McCarthy:

As strong supporters of section five of the American Energy Manufacturing Technical Corrections Act, Public Law 112-210, we are writing to urge you to establish a Small Duct High Velocity (SDHV) ENERGY STAR Specification.

As you know, SDHV systems are unique in that the duct system is sold as part of the overall product. It is our understanding that the delivered efficiency of these systems is compelling and that homeowners, builders, as well as energy efficiency experts have all identified SDHV technology as one of the best ways to efficiently heat and cool a home. For example, when the Make it Right Foundation decided to build nearly 100 LEED Platinum homes in the Lower Ninth Ward of New Orleans, they chose SDHV technology.

With this information in mind, we urge you to establish an ENERGY STAR Specification as soon as possible. If you have any questions, please do not hesitate to contact Downey Palmer at 202-224-5721.

Sincere regards,

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 2 9 2014

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your July 31, 2014, letter to U.S. Environmental Protection Agency Administrator Gina McCarthy. In your letter, you urge the EPA to establish a small duct high velocity ENERGY STAR specification. The Administrator asked that I respond on her behalf.

ENERGY STAR is recognized by 85 percent of Americans as the symbol of superior energy efficiency. Consumers rely on the label to make it easy to identify products within a category that will save energy and money compared to non-certified models and that will meet the performance needs of a broad range of consumers.

In assessing whether to add products to the ENERGY STAR program, the EPA weighs several factors. Among them are: market size, potential for energy savings, technical barriers to use and/or achieving savings, the extent to which products can be specified clearly and whether performance can be reliably measured and tested.

The EPA has carefully considered including small duct high velocity products in the ENERGY STAR specification for central air conditioning and air source heat pumps, which is under revision now, so that these products would be eligible for the ENERGY STAR label. We explored efficiency opportunities offered by this product type extensively.

During our research, we learned from efficiency experts and from the manufacturers themselves that the forthcoming Federal minimum efficiency standards for these products (which will take effect on January 1, 2015) are very close to the maximum technically feasible efficiency. This leaves little to no room for the ENERGY STAR program to differentiate higher performing products at this time, which we previously shared with our stakeholders. However, the EPA will watch the market closely and reconsider this decision should higher efficiency products become available.

In the meantime, the EPA will highlight on our website (www.energystar.gov) situations where small duct high velocity systems may be able to deliver consumer savings and comfort over traditional systems. The EPA looks forward to working with stakeholders to develop this educational information.

Again, thank you for your letter. If you have any further questions, please contact me or your staff may contact Kevin Bailey in the EPA's Office of Congressional and Intergovernmental Relations at bailey.kevinj@epa.gov or (202) 564-2998.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL-15-000-7874

ROY BLUNT
MISSOURI

VICE CHAIRMAN, SENATE REPUBLICAN CONFERENCE

260 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2508
202-224-5721

United States Senate

WASHINGTON, DC 20510

COMMITTEES
APPROPRIATIONS

COMMERCE, SCIENCE AND TRANSPORTATION

CHAIRMAN, RULES AND ADMINISTRATION

SELECT COMMITTEE ON INTELLIGENCE

March 30, 2015

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
Mail Code: 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator McCarthy,

We write to learn more about the steps the Environmental Protection Agency (EPA) is taking to protect pollinator health. Given the importance of pollinators, we would like to ensure the EPA is working closely with all stakeholders, is investigating the entire range of possible factors that impact pollinator health, and will follow all administrative requirements before completing any potential rulemakings.

As you know, pollinators play an irreplaceable role in the world's food security. Pollinators are vital to most fruit, vegetable, and nut production and they play a role in nearly $30 billion dollars in economic activity within the United States each year. In recent years, questions have arisen about pollinator health and populations. Certainly these are serious questions that require a comprehensive, science-based investigation so that we can be sure of the steps needed to continue our food production systems, avoid significant negative economic impacts, and protect the environment.

As EPA is investigating potential impacts on pollinator health, we urge the EPA to closely collaborate with the U.S. Department of Agriculture, members of the White House Pollinator Health Task Force, grower organizations, and stakeholders in prioritizing resources to first use the best science-based research available to understand the overall state of pollinator health in the U.S. We want to be sure that EPA engages grower organizations and other stakeholders most affected by any regulatory review. Those directly engaged are likely to best know the impact of potential agency actions.

In creating the Pollinator Health Task Force last June, President Obama recognized that there is a complex array of factors associated with pollinator health, and focused on conducting greater research and analysis to better understand the variety of factors that influence pollinators. Experts in the field cite multiple possible stressors that are contributing to variability in beehive counts and pollinator populations, including mites, pathogens, genetics, and loss of habitat or forage areas. We ask EPA to take care to investigate all the likely impacts on pollinator health before taking regulatory actions.

Should EPA determine it is necessary for the agency to take further regulatory actions, we urge the agency to follow all of its administrative requirements, particularly as it relates to the use and

registration of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act. We have concerns about reports that the agency may be planning to regulate some pesticides, particularly neonicotinoid products, without a sufficient understanding of all the environmental stressors facing pollinators. Neonicotinoid products are an important component of modern agriculture techniques, which have helped American farmers increase productivity, improve cost-competitiveness and continue to produce safe, nutritious food for the world. If EPA does move forward with regulatory actions regarding pesticides, we ask that you work within the existing pesticide regulatory framework, which has helped the agency to regulate in a sound, science-based manner.

Regarding EPA's potential actions designed to improve pollinator health, would you please provide answers to the following questions:

- Has EPA or its partner agencies researched the impact of the varroa mite on pollinator health? If so, how does that agency calculate the impact of the mite on hive counts?
- Most data for hive counts, both domestic and international, show variability predating the use of neonicotinoids in the U.S. and Europe. Does the EPA have data that conflict with this? If so, will you please provide it?
- Last fall the EPA released a study on the benefits of neonicotinoid seed treatments in soybean production. Did EPA conduct similar analyses of the efficacy of seed treatment in other crops? If so, what were the criteria used to select these crops, and were these studies publicly released?
- The soybean report relied on acreage and price data from the US Department of Agriculture's National Agricultural Statistics Service. Did EPA draw on other USDA data – including seed treatment usage rates and efficacy – in conducting its analysis? If so, what information did USDA provide?
- The soybean study relies heavily on "EPA Proprietary Data." Is comparable publicly available data available? Did EPA seek information from registrants, seed companies or producers?
- How will the soybean study be used in EPA regulatory decisions?
- When EPA is considering product registrations or re-registrations, how often is EPA-initiated research used versus data submitted by the registrant?
- On July 17, 2014, the US Fish and Wildlife Service (USFWS) announced that it was banning the use of neonicotinoids on USFWS lands. Was EPA consulted by the Service regarding its decision? What guidance did EPA offer?
- In October 2014, the Council on Environmental Quality (CEQ) issued guidance on the use of neonicotinoids and plant materials treated with this class of chemistry on certain federal properties. Was EPA consulted about this action? What guidance did EPA offer?

As an estimated one-third of all food and beverages are made possible by pollination, if there was a significant decline in pollinator populations, it would have a serious impact on our diets, economy, and environment. Scientists agree there is a complex set of factors that are impacting pollinator populations and any agency actions could have a significant impact on modern production agriculture. Therefore, it is essential that EPA works closely with all stakeholders and partner agencies, investigates the entire range of possible impacts on pollinator health, and follows all administrative requirements before completing any potential rulemakings.

We thank you in advance for your responses to our questions, and we look forward to working with you to promote pollinator health in a sound, science-based manner.

Sincerely,

Senator Roy Blunt

Senator Joe Donnelly

Senator Pat Roberts

Senator Mike Crapo

Senator John Boozman

Senator David Perdue

Senator Deb Fischer

Senator James M. Inhofe

Senator Thad Cochran

Senator Thom Tillis

Senator Roger Wicker

Senator Richard Burr

AL-11-001-0497

Department of Energy
Washington, DC 20585

June 20, 2011

Ms. Fay Iudicello
Director of Executive Secretariat
Office of the Executive Secretariat and Regulatory Affairs
Department of the Interior
1849 C Street NW, Room 7212
Washington, DC 20240

Mr. Eric Wachter
Director
Executive Secretariat
United States Environmental Protection Agency
Ariel Rios Federal Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Ms. Iudicello and Mr. Wachter:

On June 1, 2011, the enclosed letter to President Obama from Senator John Cornyn and 27 other members of Congress was received at the Department of Energy for response. Because the subject of the letter does not fall within the purview of the Department of Energy, we are forwarding the letter to both the Department of Interior and the Environmental Protection Agency.

If you have any questions, please call me on 202-586-8923.

Sincerely,

Brenda Mackall

Brenda L. Mackall
Work Group Leader
Correspondence and Records Management
Office of the Executive Secretariat

Enclosure
WH ID 1053632

EXEC-2011-006809

THE WHITE HOUSE OFFICE
REFERRAL

2011 JUN -2 PM 12: 04

May 26, 2011

TO: DEPARTMENT OF ENERGY

ACTION COMMENTS:

ACTION REQUESTED: APPROPRIATE ACTION

REFERRAL COMMENTS:

DESCRIPTION OF INCOMING:

ID:	1053632
MEDIA:	LETTER
DOCUMENT DATE:	April 06, 2011
TO:	PRESIDENT OBAMA
FROM:	THE HONORABLE JOHN CORNYN UNITED STATES SENATE WASHINGTON, DC 20510
SUBJECT:	EXPRESSES COMMENT REGARDING REGULATIONS THAT HINDER OUR NATION FROM PRODUCING OUR OWN DOMESTIC SUPPLY OF OIL AND GAS

COMMENTS: _____

_____

_____

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 85, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500
FAX A COPY OF REPONSE TO: (202) 456-5881

THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: April 15, 2011 **CASE ID: 1053632**

NAME OF CORRESPONDENT: THE HONORABLE JOHN CORNYN

SUBJECT: EXPRESSES COMMENT REGARDING REGULATIONS THAT HINDER OUR NATION FROM PRODUCING OUR OWN DOMESTIC SUPPLY OF OIL AND GAS

		ACTION		DISPOSITION		
ROUTE TO: AGENCY/OFFICE	**(STAFF NAME)**	**CODE**	**DATE**	**TYPE RESPONSE**	**CODE**	**DATE COMPLETED**
LEGISLATIVE AFFAIRS	ROB NABORS	ORG	04/18/2011			

ACTION COMMENTS:

✓DOE A 5/26/11

ACTION COMMENTS:

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ACTION COMMENTS:

ACTION COMMENTS:

COMMENTS: 28 ADDL SIGNEES

MEDIA TYPE: LETTER **USER CODE:**

ACTION CODES	DISPOSITION		
	TYPE RESPONSE	**DISPOSITION CODES**	**COMPLETED DATE**
A = APPROPRIATE ACTION **B** = RESEARCH AND REPORT BACK **D** = DRAFT RESPONSE **I** = INFO COPY/NO ACT NECESSARY **R** = DIRECT REPLY W/ COPY **ORG** = ORIGINATING OFFICE	INITIALS OF SIGNER (W.H. STAFF) **NRN** = NO RESPONSE NEEDED **OTBE** = OVERTAKEN BY EVENTS	**A** = ANSWERED OR ACKNOWLEDGED **C** = CLOSED **X** = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 85, EEOB.

1053632

United States Senate

WASHINGTON, DC 20510

April 6, 2011

The Honorable Barack H. Obama
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

As rising gasoline prices threaten our nation's economic recovery, we welcome your acknowledgement of the positive impact which increased domestic supplies of oil and gas will have for American families and businesses. In your speech on March 30, you stated, "producing more oil in America can help lower oil prices, create jobs, and enhance our energy security."

We agree, and we also share the goal of reducing our dependence on foreign oil. It is an achievable goal, as we know we have the resources to control our energy future. A recent report from the Congressional Research Service detailed our vast energy resources, showing America's recoverable resources are far larger than those of Saudi Arabia, China, and Canada combined. America's combined recoverable oil, natural gas, and coal endowment is the largest on Earth – and this is without including America's immense oil shale and methane hydrates deposits.

However, it is not just rhetoric that is keeping us from achieving the goals you outlined of lowering energy prices, creating jobs, and reducing our reliance on foreign energy. Rather, we are concerned that these goals are in direct conflict with certain ongoing actions of your Administration. In particular, the policies being carried out by the Environmental Protection Agency (EPA) and the Department of the Interior (DOI) directly and negatively impact oil and gas production and prices, as well as electricity prices for businesses and consumers. These policies hang heavy over the economy, with the promise of making our existing energy resources more expensive for Americans, and serve to inhibit future growth.

With consumers again facing $4.00/gallon gasoline, the EPA is pursuing job-killing greenhouse gas regulations that, like the failed cap-and-trade legislation, will serve as an energy tax on every consumer. The Affordable Power Alliance recently studied the impacts of this action and found that the price of gasoline and electricity could increase as much as 50 percent. To make matters worse, the EPA acknowledges that unilateral action by the United States will have no impact on the world's climate, as China and India dramatically increase their emissions.

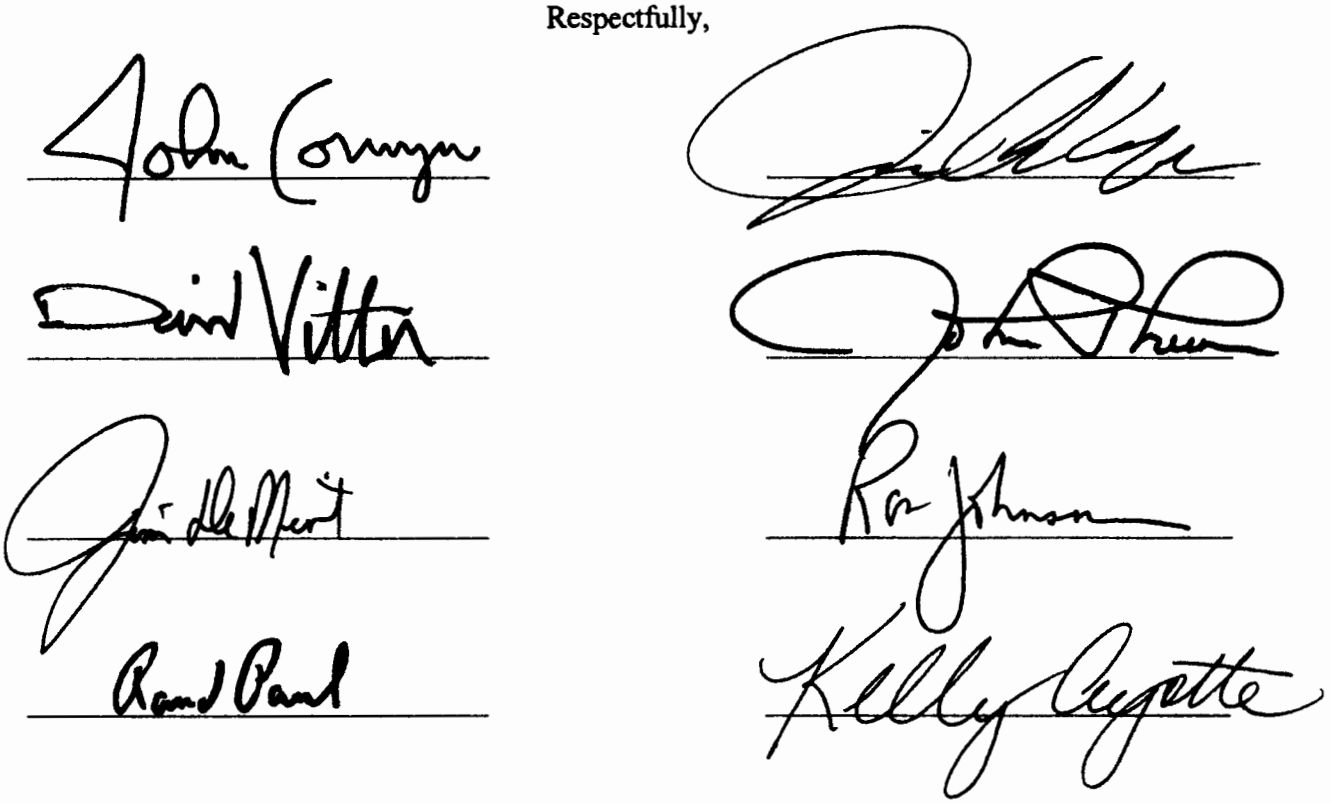
You also referenced efforts within the Administration to encourage domestic oil and gas production, yet since taking office, DOI has done exactly the opposite. In 2009, 77 oil and gas leases in Utah were cancelled, and the following year 61 additional leases were suspended in Montana. In December 2010, your Administration announced that its 2012-2017 lease plan would not include new areas in the eastern Gulf of Mexico or off the Atlantic coast – though these two areas hold commercial oil reserves of 28 billion barrels and up to 142 trillion cubic feet of natural gas. Delaying access to these areas not only hinders the production of domestic energy, but also means the loss of up to $24 billion in federal revenue. In Alaska, the EPA has failed to issue valid air quality permits for offshore exploration after over 5 years of bureaucratic

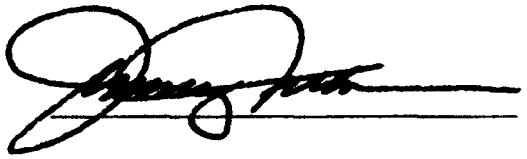
wrangling, although no human health risk is at issue and over 25 billion barrels of oil may be discovered. EPA has also contributed to the continuing delay of production from the National Petroleum Reserve-Alaska – an area specifically designated by Congress for oil and gas development.

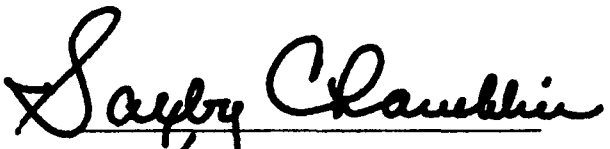
Last year, American oil production reached its highest level since 2003. The Energy Information Administrator (EIA) Richard Newell recently pointed out that the 2010 production numbers are likely the result of new leases issued during the previous administration that are just recently beginning to produce oil. Unfortunately, in the Gulf of Mexico, offshore energy production is expected to decrease by 13 percent in 2011. This decrease is cited as the result of the moratorium and the slow pace of permitting. EIA's most recent short-term energy outlook projects that domestic crude oil and liquid fuels production is expected to fall by 110,000 bbl/d in 2011, and by a further 130,000 bbl/d in 2012. To date, only 8 deepwater permits have been issued during the past 12 months, and most of these operations were started before the Macondo well blowout.

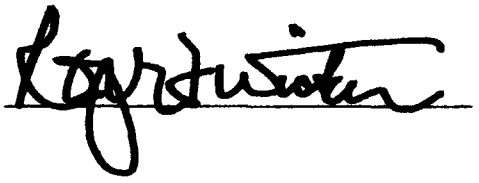
At your State of the Union Address, you called for a review of job-killing regulations within your Administration. We believe the Administration hereby has the keys to unlock our domestic energy potential today. As this review is underway, and with recognition of the toll higher energy prices are taking on Americans, we respectfully encourage you to examine the damage these current policies are having on the economy, and to work to reconcile these contradictions.

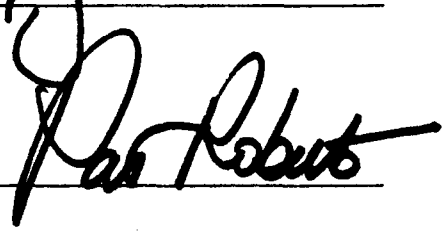
Respectfully,











Signers in order of signature (left to right):

John Cornyn, United States Senator
James Inhofe, United States Senator
David Vitter, United States Senator
John Thune, United States Senator
Jim DeMint, United States Senator
Ron Johnson, United States Senator
Rand Paul, United States Senator
Kelly Ayotte, United States Senator
Jeff Sessions, United States Senator
James E. Risch, United States Senator
Thad Cochran, United States Senator
Orrin Hatch, United States Senator
Richard Shelby, United States Senator
Jon Kyl, United States Senator
Mark Kirk, United States Senator
Richard Burr, United States Senator
John Barrasso, United States Senator
(duplicate)
Lindsey Graham, United States Senator
Jerry Moran, United States Senator
John Boozman, United States Senator
Kay Bailey Hutchison, United States Senator
Roy Blunt, United States Senator
Marco Rubio, United States Senator
Johnny Isakson, United States Senator
Mike Enzi, United States Senator
Saxby Chambliss, United States Senator
Roger Wicker, United States Senator
Pat Roberts, United States Senator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 2 4 2012

OFFICE OF CONGRESSIONAL
AND INTERGOVERNMENTAL RELATIONS

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of April 6, 2011, co-signed by 27 of your colleagues, addressed to President Obama regarding permitting of additional oil and gas production and greenhouse gas (GHG) regulation under the Clean Air Act. I have been asked to respond with respect to actions by the U.S. Environmental Protection Agency.

On March 30, 2011, the President released the Blueprint for a Secure Energy Future, which recognizes the importance of producing domestic oil safely and responsibly, while taking steps to reduce our overall dependence on oil through increased use of cleaner, alternative fuels and greater energy efficiency. The country has already made progress towards these objectives. Last year, America produced more oil than we had since 2003. In addition, the EPA and the U.S. Department of Transportation (DOT) have worked with the auto industry, auto workers, and other stakeholders to issue new standards that will reduce our transportation sector's reliance on oil while reducing GHG emissions.

The EPA's 2012-2016 GHG standards for light duty vehicles, set jointly with fuel economy standards, are projected to save 1.8 billion barrels of oil over the lifetime of those vehicles. This program represents the first meaningful update to fuel efficiency standards in three decades. In 2010, the President announced another major agreement with industry and the auto workers for the EPA and DOT to set GHG and fuel economy standards for model years 2017-2025. On November 16, 2011, the EPA and DOT issued the proposal to extend the National Program of harmonized GHG and fuel economy standards to model year 2017 through 2025 passenger vehicles. The combination of 2011 fuel economy standards, the 2012-2016 GHG emissions and fuel economy standards, and the proposed 2017-2025 standards will dramatically cut the oil we consume, saving a total of 12 billion barrels of oil and $1.7 trillion in fuel costs to American families. Also, the EPA on August 9 finalized standards for heavy duty trucks for model years 2014-2018 that are expected to save more than 500 million barrels of oil over the lifetime of those vehicles. These historic steps to reduce our dependence upon oil will protect our economy from the rising price of oil, reduce air pollution, and create and protect jobs in our manufacturing sector.

With respect to new production, the EPA supports an efficient process for Outer Continental Shelf (OCS) oil and gas permitting to enable domestic energy supplies to be developed safely and responsibly. The Bureau of Ocean Energy Management (BOEM) is the federal agency that provides authorization to drill. (The Department of Interior has responded separately to your letter.) The EPA's permits ensure compliance with air quality and wastewater discharge regulations, when and if drilling commences.

Arctic energy exploration raises special challenges and permitting issues not previously addressed in the Gulf of Mexico. The President's Blueprint established a cross-agency team to address these issues and facilitate a more efficient offshore permitting process in Alaska, while ensuring that safety, health, and environmental standards are fully met. The EPA participates in this team. In addition, the Agency has established a work group of regional and headquarters permit experts to help expedite resolution of OCS air permitting issues.

On December 23, 2011, the President signed into law the Consolidated Appropriations Act of 2012, which divested the EPA of the authority to issue air quality permits to OCS sources located off the North Slope Borough of the State of Alaska (not including any pending or existing air quality permit). Nonetheless, we would like to set the record straight on your claim that EPA failed to act on pending OCS permits for five years. Over the past five years, the EPA has issued nine OCS air permits to Shell, working closely with Shell on processing its permit applications, through several company decisions to change or withdraw applications, and through permit appeals. The EPA recently issued three of these air permits to Shell for exploratory oil and gas drilling on the OCS in the Chukchi and Beaufort seas and one to Shell for operations on the OCS in the Gulf of Mexico. EPA also issued air permits on the OCS in the Gulf of Mexico to Eni U.S. Operating Company and Anadarko Petroleum Corporation for drillships and support vessels. ConocoPillips Company filed an air permit application involving the OCS off Alaska for a minor source exploration project in the Chukchi Sea, but the company on September 26 withdrew the application and expressed its intent to submit a new OCS permit application in the near future.

Your letter also raised concerns about GHG regulation and the economy. The EPA is taking initial steps to reduce GHG emissions from large sources using Clean Air Act tools that have been used for the last 40 years to control traditional pollutants. These tools have proven effective and consistent with a strong economy. Since 1970, emissions of six key pollutants have dropped more than 60 percent while the size of the economy (gross domestic product) has grown more than 200 percent. The motor vehicle GHG and fuel economy standards discussed above are an example of how reducing carbon pollution and strengthening our economy can go hand in hand. Though some opponents purport to estimate the economic impacts of future GHG regulation, such estimates are without foundation as they are based on speculation about actions the agency has neither proposed nor endorsed.

By contrast, there is a strong foundation for proceeding with reasonable, measured steps to reduce GHG emissions from large emitters. The National Research Council (NRC) of the National Academies stated in a 2011 report, "Each additional ton of greenhouse gases emitted commits us to further change and greater risks. In the judgment of the [NRC] Committee on America's Climate Choices, the environmental, economic, and humanitarian risks of climate change indicate a pressing need for substantial action to limit the magnitude of climate change and to prepare to adapt to its impacts."[1] The NRC also has emphasized that, because GHGs persist and accumulate in the atmosphere, reductions in the near-term are important in determining the extent of climate change impacts over the next decades, centuries, and millennia.[2] The EPA's targeted actions to reduce GHG emissions from large sources will contribute to the emissions reductions required to slow or reverse the accumulation of GHG concentrations in the atmosphere.

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[1] National Research Council (2011) *America's Climate Choices*, Committee on America's Climate Choices, Board on Atmospheric Sciences and Climate, Division on Earth and Life Studies, The National Academies Press, Washington, DC.
[2] National Research Council (NRC) (2011). Climate Stabilization Targets. Committee on Stabilization Targets for Atmospheric Greenhouse Gas Concentrations; Board on Atmospheric Sciences and Climate, Division of Earth and Life Sciences, National Academy Press. Washington, DC.

The nation does not have to choose between protecting jobs and protecting the public from pollution -- we can do both. A study led by Harvard economist Dale Jorgenson found that implementing the Clean Air Act actually increased the size of the US economy because the health benefits of the Clean Air Act lead to a lower demand for health care and a healthier, more productive workforce. According to that study, by 2030 the Clean Air Act will have prevented 3.3 million lost work days and avoided the cost of 20,000 hospitalizations every year.[3] Another study that examined four regulated industries (pulp and paper, refining, iron and steel, and plastic) concluded that, "We find that increased environmental spending generally does not cause a significant change in employment."[4]

Money spent on environmental protection does not disappear from the economy; it creates and supports jobs in engineering, manufacturing, construction, materials, operation and maintenance. For example, the environmental technologies and services industry employed 1.7 million workers in 2008 and accounted for exports of $44 billion of goods and services. [5]

In conclusion, the EPA is part of the administration's effort to implement the President's Blueprint for a Secure Energy Future, and believes that protecting public health and building a stronger economy go hand in hand.

Again, thank you for your letter. If you have any questions, please contact me or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

Arvin R. Ganesan
Associate Administrator

[3] Dale W. Jorgenson Associates (2002a). *An Economic Analysis of the Benefits and Costs of the Clean Air Act 1970-1990. Revised Report of Results and Findings.* Prepared for EPA. http://yosemite.epa.gov/ee/epa/eerm.nsf/vwAN/EE-0565-01.pdf/$file/EE-0565-01.pdf

[4] Morgenstern, R. D., W. A. Pizer, and J. S. Shih. 2002. "Jobs versus the Environment: An Industry-Level Perspective." *Journal of Environmental Economics and Management* 43(3):412-436.

[5] DOC International Trade Administration. "Environmental Technologies Industries: FY2010 Industry Assessment. http://web.ita.doc.gov/ete/eteinfo.nsf/068f3801d047f26e85256883006ffa54/4878b7e2fc08ac6d85256883006c452c/$FILE/Full%20Environmental%20Industries%20Assessment%202010.pdf (accessed February 8, 2011)

AL-13000-5102

United States Senate

WASHINGTON, DC 20510

April 23, 2013

The Honorable Bob Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, D.C. 20460

Dear Acting Administrator Perciasepe:

The Environmental Protection Agency (EPA) has indicated that it plans to move forward with a formal rulemaking to clarify the definition of "waters of the United States" under the Clean Water Act (CWA).[1] We understand that the agency has yet to determine whether it will go forward with finalizing the proposed guidance in addition to the rulemaking or choose to conduct only a rulemaking.[2] As you know, this rulemaking is of extreme significance, as the scope of the final rule will indicate whether EPA intends to redefine when isolated wetlands, intermittent streams, and other non-navigable waters should be subject to regulation under the CWA.

We write to express continued concern over the possible finalization of the proposed guidance. We request that you formally withdraw the draft guidance sent to Office of Management and Budget (OMB) in February 2012, and redirect the agency's finite resources.[3] The draft guidance promulgated in 2011, if finalized, could expand the scope of the waters to be regulated beyond that intended by Congress. Moreover, leaving the guidance in place would further frustrate any potential rulemaking process. Given the significance of redefining jurisdictional limits to impose CWA authority, a formal rulemaking process provides a greater opportunity for public input and greater regulatory certainty than a guidance document.

With regard to the rulemaking, we ask that you stay within the confines of current law and eschew attempts to expand jurisdiction beyond the intent of Congress. Any rulemaking should identify limits to EPA's jurisdiction under the statute consistent with those articulated in the Supreme Court decisions of *SWANCC*[4] and *Rapanos*.[5] In both of these cases, the U.S.

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[1] Clean Water Act Definition of "Waters of the United States," http://water.epa.gov/lawsregs/guidance/wetlands/CWAwaters.cfm.

[2] *Fate Of Controversial Guide Seen As Key To Rule Clarifying CWA Scope*, InsideEPA.com, Mar. 8, 2013, *available at* http://insideepa.com/Water-Policy-Report/Water-Policy-Report-03/11/2013/fate-of-controversial-guide-seen-as-key-to-rule-clarifying-cwa-scope/menu-id-127.html.

[3] *Draft Guidance on Identifying Waters Protected by the Clean Water Act* (May 2, 2011), *available at* http://water.epa.gov/lawsregs/guidance/wetlands/upload/wous_guidance_4-2011.pdf.

[4] Solid Waste Agency of Northern Cook County. v. U.S. Army Corps of Engineers, 531 U.S. 159 (2001).

[5] Rapanos v. United States, 547 U.S. 715 (2006).

Supreme Court made it clear that not all water bodies are subject to federal jurisdiction under the CWA. Any proposed rule should reflect this principle.

As you are aware, several recent cases indicate that the courts remain critical of EPA's efforts to expand jurisdiction or aggressively exercise the agency's enforcement powers. For example, in March 2012 the Supreme Court unanimously rejected EPA's position that a compliance order issued under the CWA was not final agency action subject to judicial review.[6] More recently, the District Court for the Eastern District of Virginia held that EPA lacks authority under the CWA to establish a Total Maximum Daily Load (TMDL) for the flow of a non-pollutant (i.e., stormwater discharges) to regulate pollutant levels of an impaired water body.[7] Just last month, the Supreme Court again thwarted attempts to expand jurisdiction when it held that the flow of water from an improved portion of a navigable waterway into an unimproved portion of the same waterway does not qualify as a "discharge of a pollutant" under the CWA.[8] These cases demonstrate the readiness of the courts to ensure that EPA does not abuse the statutory and regulatory authority granted to it by Congress.

Accordingly, we request that you formally withdraw the proposed guidance and proceed with a formal rulemaking process. In conducting this process EPA should not attempt to expand its statutory authority beyond that intended by Congress. The final rule should reflect the principles promulgated in recent case law and identify limits on the agency's jurisdiction under the CWA.

Sincerely,

John Barrasso
U.S. Senator

David Vitter
U.S. Senator

Roy Blunt
U.S. Senator

John Boozman
U.S. Senator

[6] Sackett v. EPA, 132 S.Ct. 1367 (2012).
[7] Virginia Dep't of Transp. v. EPA, No. 1:12–CV–775, 2013 WL 53741 (E.D.Va. 2013).
[8] Los Angeles County Flood Control Dist. v. Natural Res. Def. Council, Inc., 133 S.Ct. 710 (2013).

Saxby Chambliss
U.S. Senator

Daniel Coats
U.S. Senator

Tom Coburn
U.S. Senator

Thad Cochran
U.S. Senator

John Cornyn
U.S. Senator

Mike Crapo
U.S. Senator

Michael Enzi
U.S. Senator

Deb Fischer
U.S. Senator

Chuck Grassley
U.S. Senator

Orrin Hatch
U.S. Senator

Dean Heller
U.S. Senator

John Hoeven
U.S. Senator

James Inhofe
U.S. Senator

Johnny Isakson
U.S. Senator

Mike Johanns
U.S. Senator

Mike Lee
U.S. Senator

John McCain
U.S. Senator

Jerry Moran
U.S. Senator

Lisa Murkowski
U.S. Senator

Pat Roberts
U.S. Senator

Marco Rubio
U.S. Senator

Tim Scott
U.S. Senator

Jeff Sessions
U.S. Senator

John Thune
U.S. Senator

Roger Wicker
U.S. Senator

Ron Johnson
U.S. Senator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 19 2013

OFFICE OF WATER

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your April 23, 2013, letter to the U.S. Environmental Protection Agency Acting Administrator Bob Perciasepe expressing your concern regarding potential issuance of the EPA and the Department of the Army (Army) guidance clarifying the scope of the Clean Water Act (CWA) jurisdiction. I understand your interest in this important issue.

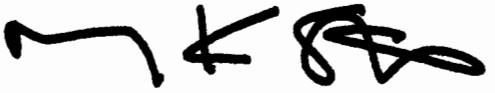
There is an urgent need to clarify the geographic scope of protections provided under the CWA. The EPA and Army issued joint guidance in 2008 to provide consistent procedures for identifying jurisdictional waters under their regulations after the Supreme Court decisions of *SWANCC* and *Rapanos*. The 2008 guidance, however, has created uncertainty, raised costs, and contributed to delays for those asking whether or not particular waters are covered by the CWA. In response to these problems, the EPA and the U.S. Army Corps of Engineers developed new guidance as a timely interim step to address the need for improved procedures. Our long-term goal is to revise our regulations to provide a more comprehensive and effective solution under the Administrative Procedures Act and consistent with the CWA and Supreme Court decisions. The agencies' guidance is now undergoing interagency review at the Office of Management and Budget. In the meantime, we are also working to prepare a joint notice of proposed rulemaking for public notice and comment. No final decisions have been made on the schedule for either issuance of final guidance or initiation of a notice and comment rulemaking process.

The agencies share your perspective regarding the importance of waters of the United States' rulemaking and agree that such rulemaking may not extend jurisdiction beyond that established by Congress under the law as clarified by Supreme Court decisions in *SWANCC* and *Rapanos*. As you correctly point out, not all waterbodies are subject to protection under the CWA. We believe, however, that the 2008 guidance is unnecessarily vague and confusing, creating avoidable problems in the process of identifying which waters are covered by the CWA. We are eager to respond to these problems in a timely, scientifically valid, and transparent process under the law.

We are pleased that the courts have consistently upheld the agencies' decisions regarding the scope of CWA jurisdiction and it is our intent to continue to implement our responsibilities in a fair, scientifically appropriate, and legally defensible manner. I would emphasize that neither of the court decisions identified in your letter, *Sackett* and *Virginia Department of Transportation,* involved a challenge to an EPA determination regarding the geographic scope of CWA protections.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4836.

Sincerely,



Nancy K. Stoner
Acting Assistant Administrator

AL-13-000-6662

United States Senate

WASHINGTON, DC 20510

June 18, 2013

The Honorable Robert Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

The Honorable Gina McCarthy
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

The Honorable Ernest Moniz
Secretary
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

The Honorable Sylvia Mathews Burwell
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Mr. Perciasepe, Ms. McCarthy, Mr. Moniz and Ms. Burwell:

We note with concern the recent update of the Administration's estimate for the Social Cost of Carbon (SCC).[1] As you are aware, the SCC estimate is crucial to the Administration's climate change agenda because the higher the number, the more benefits can be attributed to costly environmental regulations and standards. Your Agencies will make, review, or defend

[1] Interagency Working Group on Social Cost of Carbon, *Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866*, U.S. GOV'T (May 2013), http://www.whitehouse.gov/sites/default/files/omb/inforeg/social_cost_of_carbon_for_ria_2013_update.pdf

claims about the benefits of certain environmental regulations, in whole or in part, on the basis of the Federal government's assessment of the cost of carbon.[2]

We are troubled by reports on the updated estimate, especially the continued use of lower discount rates that appear to diverge from the Office of Management and Budget's (OMB) own existing guidance and the apparent lack of stakeholder involvement in the effort.[3] While the discount rates remain unchanged from 2010, the fact remains that the new SCC for 2013 increased from $22 to $36 per ton of carbon dioxide emitted (a more than 60 percent increase). This is a significant change to an already highly controversial estimate, and as such requires transparency, open debate, and an adherence to well-understood and previously agreed-upon rules.

In addition to real and ongoing concerns about the lack of openness and transparency throughout this Administration, we are troubled by any characterization of the reworked interagency estimate as relatively minor. Depending on the discount rate chosen, the increase in the cost of carbon ranges from 34 percent to 120 percent. The driving factor in these vastly different estimates is the discount rate. For example, the cost of carbon is $11 per ton when using a 5 percent discount rate, but it skyrockets to $52 using a 2.5 percent discount rate. With such a dramatic increase in the mere three years since setting the initial SCC, the interagency working group points to changes in the models used that predict more impacts from climate change. Despite years of questions being raised about the data and modeling underlying the claims of catastrophic global warming, to the best of our knowledge, there is no evidence of any circumstances in which the economic valuation of carbon decreased.

In an effort to understand the Administration's process for determining its most recent SCC estimate, and in hopes of initiating an ongoing conversation about this issue, we request prompt responses to the following questions:

1. What stakeholders were included in the process that led to the reworking of the estimate?

2. What documents guided the process? Were these documents peer-reviewed? Given the importance of the estimate, did you consider releasing it for public comment? To what extent did OMB employ its own peer-review guidelines?

3. As an interagency working group participant, how did EPA comply with the December 2012 addendum to Guidance for Evaluating and Documenting the Quality of Existing Scientific and Technical Information? Did EPA develop its own science/data for the underlying scientific support for determining the adjustment in the SCC?

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[2] *New Energy Efficiency Standards for Microwave Ovens to Save Consumers on Energy Bills*, DEP'T OF ENERGY, (May 31, 2013), http://energy.gov/articles/new-energy-efficiency-standards-microwave-ovens-save-consumers-energy-bills (*citing* Energy Conservation Program: Energy Conservation Standards for Standby Mode and Off Mode for Microwave Ovens, http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/mwo_final_rule.pdf).

[3] OFFICE OF MGMT. & BUDGET, CIRCULAR A-4: REGULATORY ANALYSIS 34 (2003), *available at* http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf (For regulatory analysis, provide estimates of net benefits using both 3 percent and 7 percent).

4. Did any non-federal government personnel participate in any of the interagency discussions or provide any input to the process?

5. How and why were the discount rates chosen? To what extent do they diverge from existing OMB guidance on appropriate discount rates? Why did you decide against including a 7 percent discount rate valuation as required under OMB Circular A-4? In assessing benefits of Agency actions since 2008, how frequently has the OMB guidance not been followed?

6. Do you have some sense of what the cost of carbon would be at a 7 percent discount rate? Can you share that?

7. Is OMB planning to provide guidance to the Agencies on how and when the SCC estimate should be applied? In what circumstances should the SCC estimate be applied in counting benefits?

8. To what extent did the process and its participants consider and incorporate the concept of carbon leakage? Going forward, will Agencies be instructed as to estimating United States' economic value lost due to production shifting overseas?

9. Why decide against including a United States' specific SCC along with concomitant valuations, as required by OMB Circular A-4?

10. Are there any benefits associated with carbon? In developing the SCC estimate, how did the interagency group account for benefits associated with activities that result in carbon dioxide emissions?

Thank you for your attention to the matter. We respectfully request your response by July 2, 2013.

Sincerely,

David Vitter
Ranking Member
Environment and Public Works

Roy Blunt
United States Senate

Jeff Sessions
United States Senate

John Barrasso
United States Senate

James Inhofe
United States Senate

Roger Wicker
United States Senate

John Boozman
United States Senate

cc: Alan B. Krueger, Chairman, Council of Economic Advisers
Nancy Sutley, Chair, Council on Environmental Quality
Tom Vilsack, Secretary, Department of Agriculture
Cameron F. Kerry, Acting Secretary, Department of Commerce
Ray Lahood, Secretary, Department of Transportation
Gene B. Sperling, Director, National Economic Council
Dr. John Holdren, Director, Office of Science & Technology Policy
Jacob J. Lew, Secretary, Department of Treasury

AL-13-001-1115

JASON SMITH
8TH DISTRICT, MISSOURI

COMMITTEE ON THE JUDICIARY
COURTS, INTELLECTUAL PROPERTY AND THE INTERNET SUBCOMMITTEE
REGULATORY REFORM, COMMERCIAL AND ANTITRUST LAW SUBCOMMITTEE
CONSTITUTION AND CIVIL JUSTICE SUBCOMMITTEE

COMMITTEE ON NATURAL RESOURCES
PUBLIC LANDS AND ENVIRONMENTAL REGULATION SUBCOMMITTEE
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Congress of the United States
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http://www.jasonsmith.house.gov

September 27, 2013

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Administrator McCarthy:

We understand that the EPA has been expanding the Urban Waters Federal Partnership, an interagency coalition created in 2011 to revitalize urban waterways and their surrounding communities. The Partnership announced in May that two new sites in Missouri would be added to the list of project locations: the Big River and Meramec River watersheds near St. Louis, and the Middle Blue River in Kansas City.

As representatives of Missouri, we support cost-effective measures that will enhance the quality and public accessibility of our state's waterways. However, in light of the recent "National Blueways" debacle, it is important that the public be informed about the scope of well-intentioned programs that could result in increased burdens on landowners and river stakeholders. We therefore ask that you provide us with additional information about the Partnership and the reasoning behind EPA's decision to designate two Missouri sites as target locations. After reviewing the program, we have a number of questions:

1. What are the goals of the program, and how does the Partnership define success at any particular waterway?
2. What are the criteria for selecting a particular waterway as a project location?
3. How would you define the scope of the program, especially in relation to other similar programs?
4. How is the program funded?
5. What kind of projects will the Partnership pursue to improve access and/or quality in the Missouri watersheds specifically? For example, will the Partnership pursue new policy measures, such as stricter effluent limitations?
6. What specific projects have been undertaken in other designated Urban Waters?
7. Within a collaboration of thirteen agencies, is EPA ultimately responsible for the successful implementation of projects and reporting on achievements?

As EPA continues to expand this Partnership, I urge you to communicate early and often with our staff to keep us apprised of activities the Partnership has planned in our home states. We look forward to your response, and please contact our staff at downey_palmer@blunt.senate.gov and ryan.b.hart@mail.house.gov if you need more information.

Sincerely,

Roy Blunt
UNITED STATES SENATOR

Jason Smith
MEMBER OF CONGRESS

Cc: Nancy Sutley, Chair of the Council on Environmental Quality

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 12 2014

The Honorable Jason Smith
United State House of Representatives
Washington, D.C. 20515

OFFICE OF WATER

Dear Congressman Smith:

Thank you for your September 27, 2013, letter to the U.S. Environmental Protection Agency concerning the Urban Waters Federal Partnership locations at the Middle Blue River in Kansas City, Missouri, and at the Big River and Meramec River watersheds near Saint Louis, Missouri. In your letter, you asked a number of questions about the Partnership and stated your support for cost-effective measures that will enhance the quality and public accessibility of Missouri's waterways. I appreciate your interest in the EPA's urban waters efforts as part of the Urban Waters Federal Partnership.

The mission of the Partnership is to assist people living in urban and metropolitan areas, particularly those that are underserved or economically distressed, to connect with their waterways and work to improve them. As part of this mission, the Partnership works in collaboration with local communities to help ensure that the Partnership's efforts fully involve and reflect community priorities and achieve success. The full Partnership Vision, Mission and Principles document and a description of each of the locations and a national report can be found at www.urbanwaters.gov. For the two locations in Missouri, the website includes two-page descriptions of the actions currently occurring or planned. Neither the national Partnership nor the Partnership in a particular location has authority to impose new statutory or regulatory requirements.

The Partnership now includes 13 federal agencies and is working in 18 locations nationwide, including the two locations in Missouri. Federal agencies have been closely collaborating to develop, initiate and operate the Partnership since it was announced in June 2011. The Partnership is led by a federal agency executive group on a national level, and by a coalition of federal, state and local governments, as well as private and non-profit entities in each location. In this way, the Partnership is connecting and leveraging the authorities of various agencies and entities to streamline processes for local projects and to focus existing federal resources in a more effective manner. Additional information on the Partnership's accomplishments nationwide can be found in the Urban Waters National Partnership's May 2013 "Partnerships in Action" report.[2]

This Partnership aims to encourage greater federal collaboration with communities to address serious challenges facing urban waters and to assist communities in capitalizing on their local urban waterways and in revitalizing their neighborhoods and economies. The Partnership focuses on working with communities where there are already agencies working with local, state and regional partners collaborating on improving an urban water body and advancing local community priorities. The Partnership agencies considered several factors in determining where to start the first phase of their work. These factors included the following: an urban water body; an active federal partnership of at least

[2] See http://www.urbanwaters.gov/pdf/UW-FederalPartnershipReport_v7al.pdf.

two agencies, with one agency taking a leadership role; a clearly identified underserved or economically distressed community; geographic diversity on a national basis; and the capacity of local stakeholders to participate collaboratively.

These pilot locations provided an opportunity to gain experience and to identify needs and explore ways to meet those needs. Member agencies are now developing a summary of the best practices and approaches so that these can be shared with interested communities across the country.

With respect to funding for the Partnership, all agency staff are currently funded using existing appropriations. Using such funds, the EPA and its federal partners have announced several funding opportunities to help focus the agencies' resources and provide assistance to community groups and other stakeholders. First, the EPA has provided funding for urban waters small grants action under the agency's Clean Water Act Section 104(b)(3) authority. Second, for Fiscal Year 2013, the EPA announced a second year of small grants, which will be made available for projects undertaken in eligible geographic locations aligned with the 18 Partnership locations, including the two Missouri locations. Competition for these grants is open to all eligible entities in any of these locations. Finally, also utilizing the agency's Section 104(b)(3) authority, the EPA collaborated with the U.S. Forest Service in FY 2012, along with private-sector entities, to fund urban waters projects through the National Fish and Wildlife Foundation. A new NFWF solicitation using FY 2013 funds, again announced with private-sector partners, will fund similar urban waters projects.

Thank you again for your interest in the Partnership. The EPA is committed to closely working with our federal, state, local and private partners to achieve success. If you have further questions or concerns, please contact me or you staff may contact Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at Borum.Denis@epa.gov or 202-564-4836.

Sincerely,

for Ellen Darinsky

Nancy K. Stoner
Acting Assistant Administrator

AL-11-000-0835

ROY BLUNT
MISSOURI

United States Senate

WASHINGTON, DC 20510

January 14, 2011

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Administrator Jackson:

I am deeply concerned regarding the basis of EPA's lawsuit against Ameren Corporation for alleged New Source Review (NSR) violations under the Clean Air Act. In its suit, EPA claims that Ameren's nearly decade-old construction on its Rush Island coal plant in Festus, MO represented a "major modification" that triggers best available technology control (BACT) requirements under NSR.

However, it is my understanding that these construction projects were considered routine maintenance and in some cases, efficiency improvements. Some examples of these projects were routine repair and replacement work, and even modifications of the plant enabling it to switch to burning low-sulfur coal. It is particularly puzzling that EPA would punish Ameren for making improvements clearly aimed at actually reducing emissions.

It would not be difficult to draw the conclusion that this recent lawsuit is another backdoor method used by the EPA to broadly penalize the use of coal in the United States. This is especially offensive to Missourians, whose economy relies on coal to produce more than 80% of the state's electricity. EPA appears to be construing the major modification requirement so broadly that it stretches the agency's authority under NSR to limits well beyond those envisioned by Congress. Forcing utilities to undergo new and duplicative BACT assessments would serve to discourage them from achieving the very efficiency and emissions reduction projects that the EPA purportedly intends to promote. This is a counterintuitive, disingenuous, and irresponsible action by a federal agency and it deserves the utmost scrutiny by the United States Congress.

Due to its acknowledged negative impact on the economy by legislators from both parties, legislation related to cap and trade has been spurned by federal lawmakers. Politically-driven efforts by federal agencies to circumvent the will of Congress through regulatory action should be closely examined by the House and Senate.

I respectfully request that you respond to this letter with answers to the following inquiries:

1) How many site visits did EPA regulators make to the Rush Island plant to determine the basis for the lawsuit in question?
2) On which dates were these visits made?

3) What specific guidance did the EPA provide to Ameren regarding the legality of its proposed construction project?
4) Are the emissions from the Rush Island plant less clean as a result of its modification?
5) What effort did the EPA make to determine the economic cost to ratepayers should the proposed construction fail to occur?

Elected officials are both constitutionally and morally burdened with the responsibility of broadly examining policies to determine what is in the best interest of their constituents, an obligation that has recently been at odds with the activities of federal regulators. In particular, a tsunami of regulations from the EPA threatens to significantly hamper our nation's access to cost-efficient and reliable energy. A North Electric Reliability Corporation (NERC) study found that should only a handful of the pending EPA regulations be enacted, significant potential impacts to reliability would result and that up to 70 GW of electricity capacity would be retired by 2015. The result would be increased electricity rates, economic damage, and lost jobs. This is hardly in the economic interests of my constituents in Missouri.

To the extent that the EPA's efforts to deter the use of coal through executive fiat are furthered through the lawsuit against Ameren and its modification program at the Rush Island plant, I intend to closely examine the motives behind this legal action. Americans are deeply and increasingly frustrated with actions taken by this Administration with little regard for their economic well-being. I intend to ensure that Congress, not the EPA, legislates on their behalf.

I look forward to your prompt response. Please feel free to contact Downey Palmer at (202) 224-5721 if you have any questions regarding this letter or these inquiries.

Sincere regards,

Roy Blunt

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 09 2011

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your January 14, 2011 letter regarding the United States' lawsuit filed on January 12, 2011, against Ameren Missouri (Ameren) for alleged violations of the Clean Air Act new source review (NSR) program at Ameren's Rush Island plant located in Jefferson County, Missouri. I appreciate the opportunity to describe how the United States Environmental Protection Agency (EPA) investigates and prosecutes probable violations of the Clean Air Act's new source review (NSR) program.

As with all pending enforcement actions, including those referred to the U.S. Department of Justice (DOJ), EPA does not disclose information that may interfere with an investigation, settlement negotiation or litigation. I can, however, provide you with some pertinent general information on EPA's approach to enforcing United States environmental law and protecting human health.

The coal-fired power plant sector is the leading contributor to sulfur dioxide pollution in the United States. This pollution can travel long distances and cause asthma, respiratory illness and premature death. It can also result in increased hospital admissions, emergency room visits and absences from school or work – particularly for sensitive populations like older adults and children. Because of these serious health consequences and the fact that there is widespread non-compliance in this sector, the coal-fired power plant industry is included in EPA's National Enforcement Initiative to reduce widespread air pollution from the largest sources of emissions. While we have made considerable progress reducing pollution from this sector, EPA continues to see illegal pollution seriously affecting our nation's air quality and human health.

Congress designed the NSR pre-construction permitting program to require a source of air pollution to obtain an NSR permit and install state-of-the-art pollution controls when it is the most economical and practical to do so, *i.e.*, at the time a new source is built or at the time an existing source undertakes a major modification. EPA's enforcement action against Ameren for activities at its Rush Island plant is consistent with the above-described congressional mandate.

In order to establish an NSR violation, EPA must prove that a physical change or change in the method of operation would be expected to cause an increase in a regulated NSR pollutant within the meaning of the Clean Air Act and the relevant regulations. EPA would also address a company's claim that a project is not a "modification" because it is "routine maintenance, repair and replacement."

EPA generally begins investigations of coal-fired power plants by gathering information directly from a company pertaining to the types of activities that give rise to potential NSR applicability. EPA then carefully reviews and analyzes the information provided by the company. If, after this evaluation, EPA determines that the company should have sought an NSR pre-construction permit and installed state-of-the-art pollution controls, EPA will generally engage the company either informally or more formally through the issuance of a notice of violation (NOV). An NOV specifically identifies the activities that EPA believes give rise to NSR applicability. The NOV provides a company with the opportunity to confer with EPA about the alleged violations, and to bring to EPA's attention any additional facts or legal arguments that might bear on the question of NSR applicability. At that time, a company can begin the process of working with EPA towards a settlement of the claims raised by EPA in its NOV. EPA assesses all information it receives from a company before deciding whether to move forward with an enforcement action. In addition, to initiate a lawsuit in federal court, EPA must refer the proposed lawsuit to DOJ. DOJ conducts an independent evaluation of all the information gathered by EPA before filing a lawsuit asserting that a company has violated the Clean Air Act.

In regard to the action against Ameren, the United States' complaint alleges, among other things, that Ameren made major modifications to the Rush Island plant and did not install and operate state-of-the-art air pollution controls, as the law requires, including the best available control technology to reduce emissions of sulfur dioxide. The Rush Island plant ranks among the largest sources of air pollution in Missouri and the nation, emitting tens of thousands of tons of sulfur dioxide pollution each year. When sulfur dioxide is released from power plants and other sources, it reacts in the atmosphere to form fine particulate matter, known as $PM_{2.5}$. Jefferson County and several other areas in the country are currently in nonattainment with the annual National Ambient Air Quality Standards for $PM_{2.5}$, meaning that these communities do not meet minimum federal standards for air quality.

Because of EPA's enforcement work in the coal-fired power plant sector, communities near and downwind of these plants live longer, healthier lives and have saved billions of dollars in health costs every year. Through our twenty settlements in this enforcement initiative, coal-fired utilities have made commitments to reduce millions of tons of pollution, protect public health and reinvest in their communities. While we have made significant progress, EPA remains committed to vigorous enforcement of the Clean Air Act and the NSR program.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Carolyn Levine in EPA's Office of Congressional and Intergovernmental Relations at 202-564-1859.

Sincerely,

Cynthia Giles

AL-11-000-5903

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

April 15, 2011

Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express concerns about additional regulatory actions that the Environmental Protection Agency is planning to take regarding the "Lead: Renovation, Repair and Painting Rule" (LRRP).

We first contacted you with our concerns about the implementation of this rule in May 2009. Though implementation was difficult, the rule is now fully in place and, thanks to the June 2010 enforcement guidance, EPA has trained significantly more contractors than it initially estimated it would need for compliance.

However, we now understand that, as a result of a legal settlement, EPA has already proposed new amendments to the LRRP rule. These amendments would require renovators to conduct "clearance testing" following a project's completion to prove the presence or absence of lead in homes. We are concerned about this amendment for a number of reasons.

First, poor planning for the initial LRRP resulted in the rule taking effect without having enough opportunities for renovators to become certified, massive confusion among homeowners about the necessity of paying extra for the LRRP compliance measures, and an inadequate amount of lead test kits. Additionally, EPA significantly underestimated the cost of compliance for small businesses and individuals.

Dramatic changes to the program, such as the requirement for clearance testing, will likely impose significant confusion and complication for renovators and remodelers who have already completed their LRRP training and will also result in additional costs for homeowners and renovators to pay for the clearance testing. We have heard from a number of our constituents that the higher costs from current LRRP renovators have pushed homeowners to either hire uncertified individuals or to perform renovation work themselves. This is absolutely counter to the intent of the rule, which is to protect people from the potential dangers of lead dust.

Second, this new requirement is a clear violation of congressional intent under the Toxic Substances Control Act (TSCA). Congress made clear that renovation activity and abatement activity are separate. Renovation work is governed by section 402 of TSCA and abatement work is under section 405. Additionally, EPA's own definitions make it clear that abatement and remodeling are different activities. The regulatory definition of abatement not only excludes remodeling activities, but defines abatement as the identification and permanent elimination of lead hazards. Remodeling activities, on the other hand, are not required to eliminate lead hazards but instead to repair, restore, or remodel the existing structure. By requiring remodelers to comply with the same lead hazards as the abatement firms will blur the lines between renovators and abatement firms, potentially harming both.

Finally, the identification of a lead hazard in rooms where the renovations have not occurred by remodelers will make renovators liable for existing lead in the home. Many of the homes where this work will be done may already have lead levels exceeding EPA's federal hazard level prior to renovation work. Regardless of whether the lead levels were cleared or not, renovators must leave documentation that confirms the presence of lead in the home that must be disclosed to future buyers or tenants.

This amendment raises some serious questions for us:

- Previous EPA studies have found that LRRP work practices and training requirements provide protection of public health. Has EPA received additional data regarding LRRP work practices and their health protections? We would be interested to review any new health or exposure data justifying an expansion of regulation to cover renovation work.

- Additionally, please provide us with the authority EPA has under TSCA to require remodelers to use clearance testing or dust wipe testing.

- Finally, it appears that EPA's initial cost estimate included a lower number of renovations requiring lead safe work practices due to approval of "next generation" testing kits. Unfortunately, none of those kits were approved. With the test's false positives, will EPA be revising its economic analysis of this rule, given the unavailability of new testing kits, and the higher number of jobs that require lead safe work practices?

Protecting pregnant women and children from lead exposure is important to all of us and we continue to support the intent of the LRRP rule. However, these amendments could have the unintended consequence of driving people away from using LRRP certified renovators and missing the clear benefits that come from employing LRRP renovators.

Thank you for your consideration of this important matter.

Sincerely,

Jim McCain Susan M. Collins

David Vitter

Olympia Snowe

Chuck Grassley

Roy Blunt

John Barrasso

Michael B. Enzi

John Hoeven

Mike Johanns

Lamar Alexander

Tom Coburn

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 1 1 2011

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of April 15, 2011, to the U.S. Environmental Protection Agency (EPA) expressing your concerns about proposed amendments to EPA's 2008 Lead Renovation, Repair, and Painting Rule (RRP rule), which requires most contractors who disturb paint in housing built prior to 1978 to be certified by EPA and trained in lead-safe work practices.

As you are aware, the RRP rule is an important part of the Federal government's overall strategy for eliminating childhood lead poisoning. Congress directed EPA to develop training and certification requirements for lead activities, including renovations, as part of the Residential Lead-Based Paint Hazard Reduction Act of 1992. EPA issued the RRP rule in 2008, and it became fully effective in April 2010. The rule provides simple, low-cost, common-sense steps contractors can take during their work to protect children and families. Since the RRP rule became final, EPA and states have made significant progress in implementing its requirements, which will protect millions of children from exposure to lead-based paint during renovation activities. As of today, more than 86,000 firms have been certified, more than 500 training providers have been accredited to provide training in lead-safe work practices, and we estimate that more than 600,000 renovation and remodeling contractors have been trained in lead-safe work practices. These requirements are key to protecting all Americans and especially vulnerable populations, such as children and pregnant women, from the harmful effects of lead exposure.

Shortly after the final RRP rule was promulgated in 2008, several lawsuits were filed challenging the rule. These lawsuits (brought by industry representatives as well as environmental and children's health advocacy groups) were consolidated in the federal Circuit Court of Appeals for the District of Columbia Circuit. On August 26, 2009, EPA signed a settlement agreement with the environmental and children's health advocacy groups and shortly thereafter the industry representatives voluntarily dismissed their challenge to the rule. The settlement agreement required EPA to propose changes to the RRP rule to require dust wipe testing after many renovations already covered by the RRP rule.

Accordingly, on April 22, 2010, EPA issued a Notice of Proposed Rulemaking (NPRM) under the authority of Section 402(c)(3) of the Toxic Substances Control Act that would require dust wipe testing after many renovations covered by the RRP rule. The NPRM published in the Federal Register on May 6, 2010, opening a 60 day public comment period. At the request of several stakeholders, and because EPA recognized the importance of the issues raised by the NPRM, EPA reopened the public comment period for an additional 30 days on July 7, 2010.

Commenters on the proposed rule raised a number of issues, including the issues described in your letter. EPA has reviewed the more than 300 comments on the proposal and has considered them carefully in determining what final action on the proposal should be taken. A summary of these comments and EPA's responses will be made publicly available in the docket when the final rule is published.

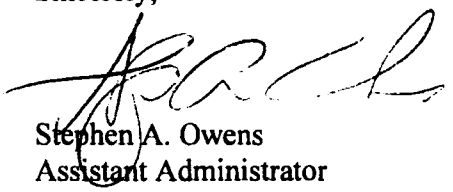
The settlement agreement calls for EPA to take final action on the proposal by July 15, 2011. EPA intends to meet this deadline. The final rule is currently undergoing review by the Office of Management and Budget.

With respect to the content or substance of the final action, the settlement agreement does not constrain the Agency's traditional discretion with respect to taking a final action on a proposal for rulemaking. Under the Administrative Procedure Act (APA) agencies have the discretion to make changes to what was proposed, provided that such changes are a "logical outgrowth" of the proposal. The settlement agreement does nothing to disturb this discretion under the APA.

With regard to the economic analysis, EPA typically revises the economic analysis accompanying the proposed rule to address the options chosen in the final rule. The revised economic analysis will incorporate or address relevant comments or other information, including that related to test kits, received by EPA after the proposal was issued and before the final rule is promulgated.

Again, thank you for your letter and your support for the goal of preventing dangerous lead exposures. If you have additional questions or concerns, please contact me or your staff may contact Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,



Stephen A. Owens
Assistant Administrator

AL-11-001-2491

United States Senate

WASHINGTON, DC 20510

July 26, 2011

The Honorable Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460-0001

Dear Administrator Jackson:

We write to you out of concern regarding a proposed rule by the U.S. Environmental Protection Agency (EPA) to require power plants and other industrial and manufacturing facilities to minimize the impacts associated with the operation of cooling water intake structures (CWIS), as published in the *Federal Register* on April 20, 2011. Given the economic, environmental, and energy impacts this proposed rule could have, we urge the EPA to take a measured approach to this rulemaking in order to ensure sufficient flexibility and that any costs imposed by the requirements in the final rule are commensurate with the likely benefits.

Section 316(b) of the Clean Water Act (CWA) requires CWIS to reflect the best technology available for minimizing adverse environmental impact. For more than thirty years, the EPA and state governments have applied this requirement on a site-by-site basis, examining the impacts of CWIS on the surrounding aquatic environment.

As such, the proposed rule appropriately gives state governments the primary responsibility for making technology decisions regarding how best to minimize the entrainment of aquatic organisms at affected facilities, an approach which recognizes the importance of site-specific factors. A site-by-site examination of aquatic populations, source water characteristics, and facility configuration and location is vital in determining any environmental impacts, the range of available solutions, and the feasibility and cost-effectiveness of such solutions.

Unfortunately, the EPA has not adopted a similar approach to minimizing the impacts of impingement, but rather, is proposing uniform national impingement mortality standards. This approach to impingement sets performance and technology standards not demonstrated to be widely achievable and likely unattainable for many facilities. This method also takes away the technology determination from state governments and ignores the impingement reduction technologies already approved by these states as the best technology available.

And in so doing, the EPA has proposed a rule costing more than twenty times the estimated benefits – according to its very own estimate. This is notable considering the cost estimate does not include the cost of controls to address entrainment.

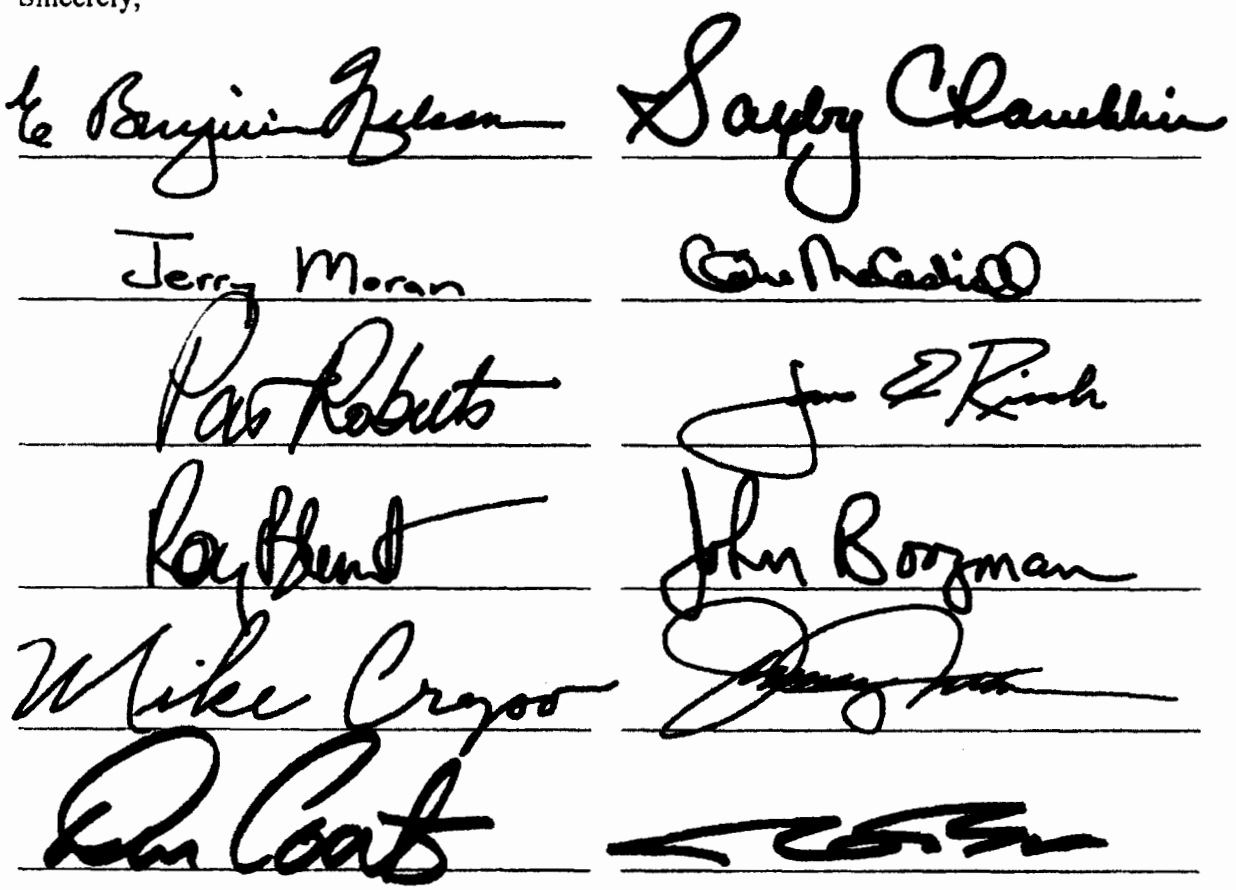
As an alternative, we believe the rule should give state environmental regulators the discretion to perform site-specific assessments to determine the best technology available for addressing both

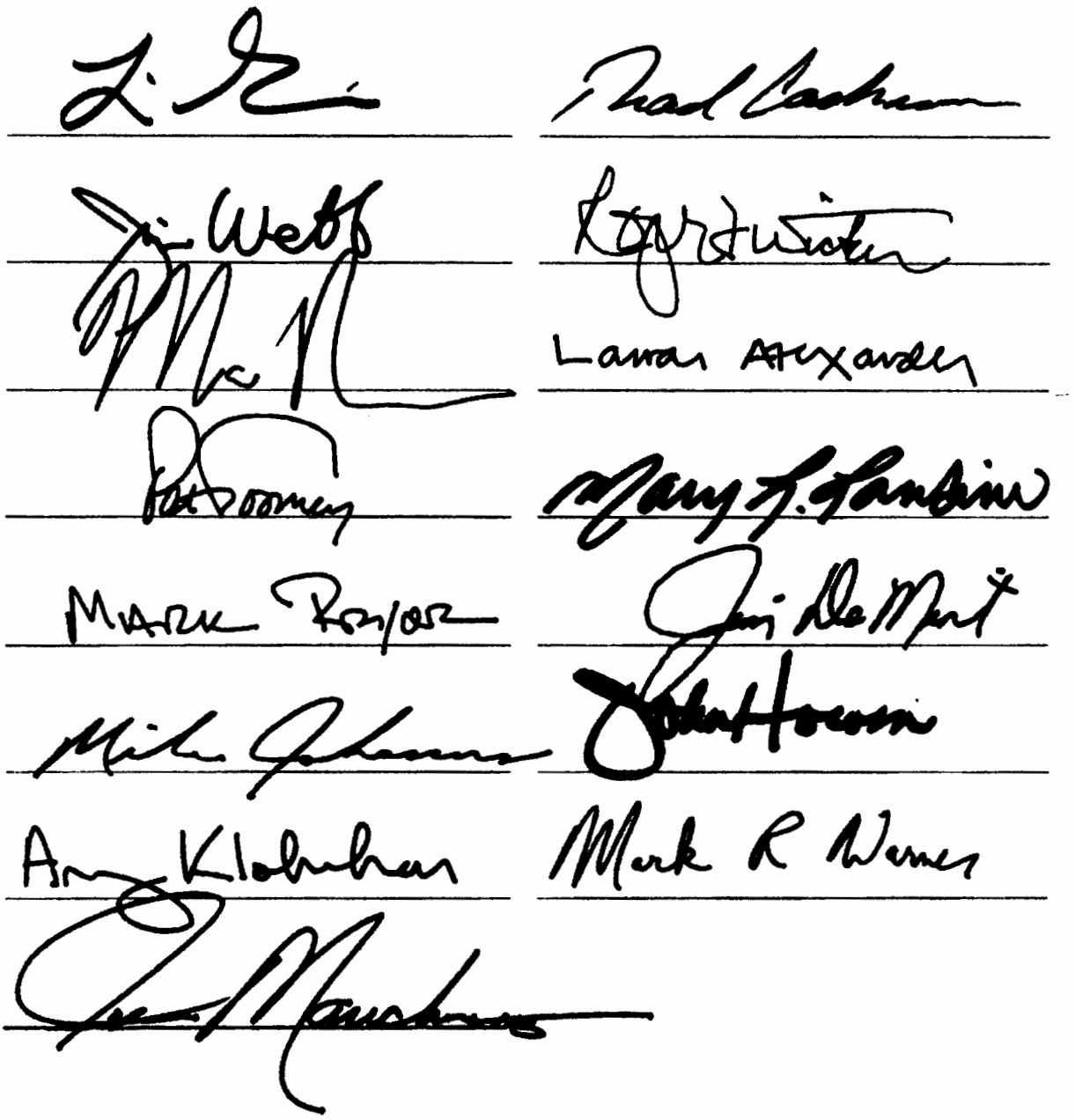
impingement and entrainment together. This approach stands in stark contrast to a national one-size-fits-all approach and allows a consideration of factors on a site-by-site basis. We feel this would provide consistency and give permitting authorities the ability to select from a full range of compliance options to minimize adverse environmental impacts, as warranted, while accounting for site-specific variability, including cost and benefits. Furthermore, we believe the EPA should focus on identifying beneficial technology options, rather than setting rigid performance standards; and the EPA should not define closed-cycle cooling to exclude those recirculating systems relying on man-made ponds, basins, or channels to remove excess heat.

Given the proposed rule's potential to impact every power plant across our country, an inflexible standard could result in premature power plant retirements, energy capacity shortfalls, and higher energy costs for consumers. Therefore, we urge you to use the flexibility provided by the Supreme Court and the Presidential Executive Order on regulatory reform, E.O. 13563, *Improving Regulation and Regulatory Review*, and modify the proposed rule to ensure that any new requirements will produce benefits commensurate with the costs involved and maximize the net benefits of the options available.

Thank you for your consideration of our request. We look forward to your response.

Sincerely,





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP - 2 2011

OFFICE OF
WATER

The Honorable Roy Blunt
United States Senate
Washington, DC 20510

Dear Senator Blunt:

Thank you for your letter of July 26, 2011, regarding the proposed regulation on cooling water intakes. Your concerns over potential economic, environmental, and energy impacts echo the concerns we are hearing from others during the public comment period.

Our goal was, and continues to be, a process that results in a common-sense and cost-effective approach to protecting aquatic life without sacrificing electricity services on which households and businesses across the country depend. I have strived to take a measured approach to this proposal by establishing a strong baseline level of protection, and then allowing states the primary responsibility to develop additional safeguards for aquatic life through a rigorous site-specific analysis. This approach allows states to consider technologies already employed by facilities, to address site-specific water characteristics and facility configuration, and to perform best technology available assessments by a process under which factors such as costs and benefits may be considered. Several of your specific comments on the proposed approach have resonated with us. For example, you mention the need for a more flexible approach to the impingement standard. Others have expressed a similar concern, and we have already had productive stakeholder discussions about alternatives.

The EPA is proposing these standards to meet its obligations under the Clean Water Act pursuant to a recent settlement agreement with environmental groups whereby the EPA agreed to issue a final decision by July 2012. When the Agency takes final action we will be providing the public and our regulated stakeholders with the regulatory certainty they have lacked for 30 years, and that certainty – in conjunction with the considerable flexibility our federal regulation provides to states – will allow regulated stakeholders to make sound investment decisions, and hasten our economic recovery.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Greg Spraul in EPA's Office of Congressional and Intergovernmental Relations at 202-564-0255.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP - 2 2011

OFFICE OF
WATER

The Honorable John Boozman
United States Senate
Washington, DC 20510

Dear Senator Boozman:

Thank you for your letter of July 26, 2011, regarding the proposed regulation on cooling water intakes. Your concerns over potential economic, environmental, and energy impacts echo the concerns we are hearing from others during the public comment period.

Our goal was, and continues to be, a process that results in a common-sense and cost-effective approach to protecting aquatic life without sacrificing electricity services on which households and businesses across the country depend. I have strived to take a measured approach to this proposal by establishing a strong baseline level of protection, and then allowing states the primary responsibility to develop additional safeguards for aquatic life through a rigorous site-specific analysis. This approach allows states to consider technologies already employed by facilities, to address site-specific water characteristics and facility configuration, and to perform best technology available assessments by a process under which factors such as costs and benefits may be considered. Several of your specific comments on the proposed approach have resonated with us. For example, you mention the need for a more flexible approach to the impingement standard. Others have expressed a similar concern, and we have already had productive stakeholder discussions about alternatives.

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Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Greg Spraul in EPA's Office of Congressional and Intergovernmental Relations at 202-564-0255.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

AL-11-001-0735

United States Senate

WASHINGTON, DC 20510

June 30, 2011

The Honorable Lisa P. Jackson
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20004

The Honorable Jo-Ellen Darcy
Office of the Assistant Secretary (Civil Works)
Department of the Army
108 Army Pentagon
Washington, DC 20310

Dear Administrator Jackson and Assistant Secretary Darcy:

On May 2, 2011 the Environmental Protection Agency and the Army Corps of Engineers (the Agencies) published in the Federal Register (76 Fed. Reg. 24479) a request for comments on draft guidance relating to the identification of waters protected under the Clean Water Act (CWA).

We have a great deal of concern about the actions that the Agencies are pursuing. The Agencies claim that this guidance document is simply meant to clarify how the Agencies understand the existing requirements of the CWA in light of the current law, regulations, and Supreme Court cases. More than clarifying, they greatly expand what could be considered jurisdictional waters through a slew of new and expanded definitions and through changes to applications of jurisdictional tests. This guidance document improperly interprets the opinions of the plurality and Justice Kennedy's opinion in *Rapanos v. United States* by incorporating only their expansive language in an attempt to gain jurisdictional authority over new waters, while ignoring both justices' clear limitations on federal CWA authority.[1] Attached are highlights of several specific issues regarding the draft guidance document.

The decision to change guidance, just a few short years after the Agencies issued official guidance on the exact same issue, has not been prompted by any intervening changes to the underlying statute through legislation or a new Supreme Court decision. Further, we understand that the Agencies intend this draft guidance to be the first step toward a formal rulemaking in the future. Because the Agencies' intent is to turn the draft interim guidance into regulations, it can only be interpreted to mean that they intend the guidance to be followed. Following the guidance will change the rights and responsibilities of individuals under the CWA – this is clearly the regulatory intent.

In the economic analysis completed by the Agencies, it was determined that as few as 2% or as many as 17% percent of non-jurisdictional determinations under current 2003 and 2008 guidance would be considered jurisdictional using the expanded tests under the draft guidance.[2] Any change in jurisdiction which results in a change to the rights and responsibilities of a land owner is, in fact, a change in the law as the program has been implemented to date.

Further, the draft guidance is intended to apply to more jurisdictional interpretations than just those covered by the Army Corps in making §404 determinations, but also those under §402 that governs

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[1] 547 U.S. 715 (2006)

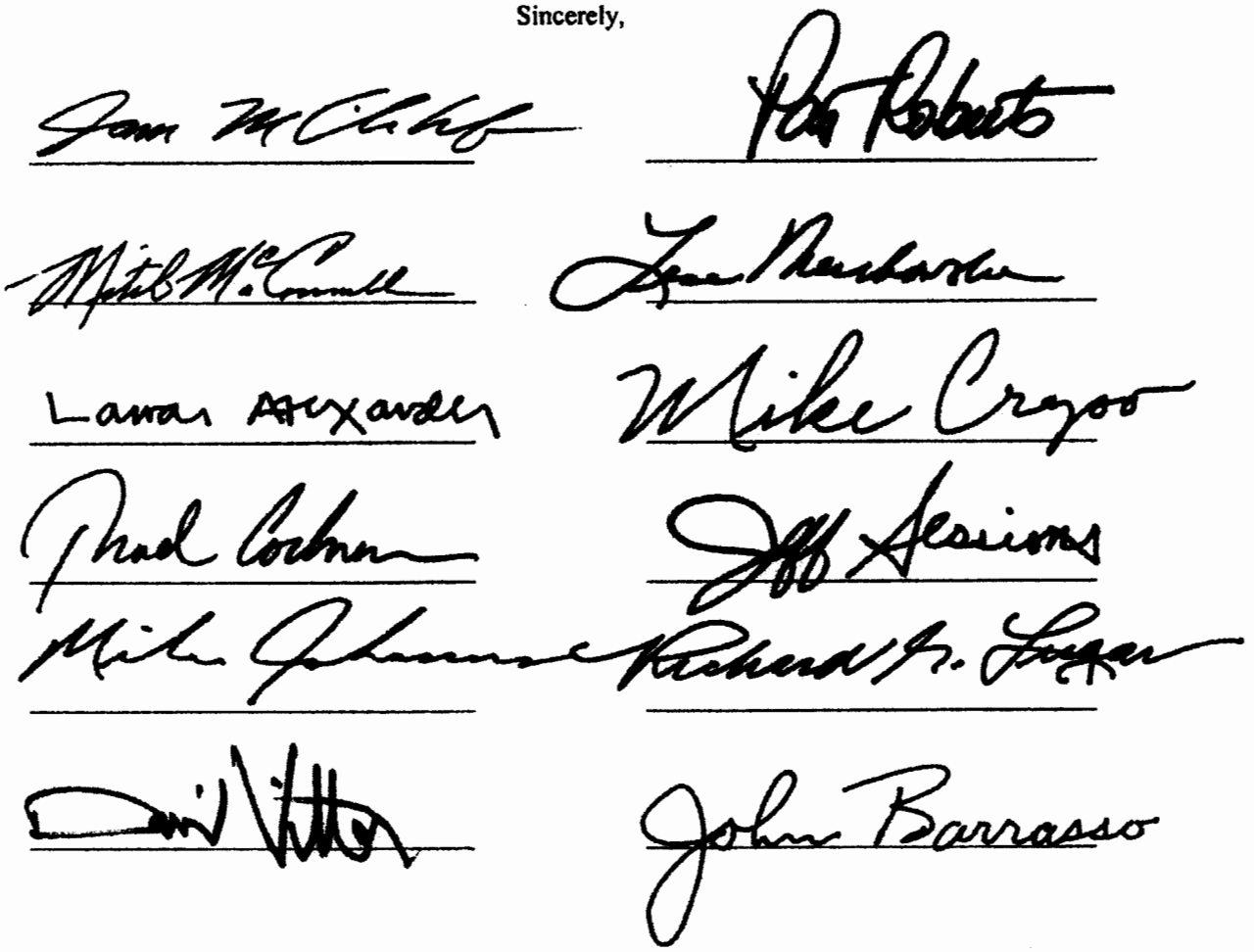
[2] "Potential Indirect Economic Impacts and Benefits Associated with Guidance Clarifying the Scope of Clean Water Act Jurisdiction." April 27, 2011 http://water.epa.gov/lawsregs/guidance/wetlands/upload/cwa_guidance_impacts_benefits.pdf

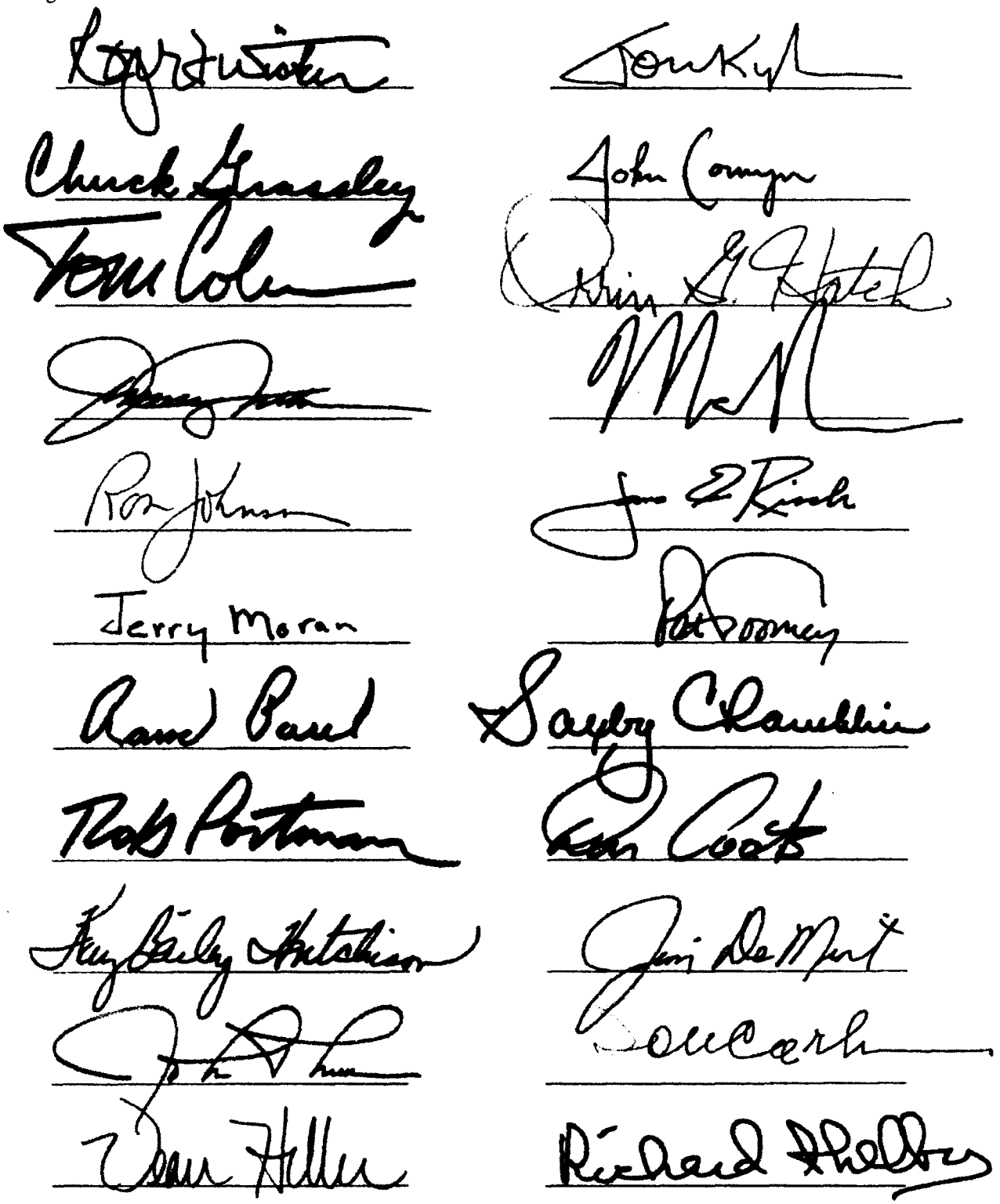
National Pollution Discharge Elimination System permits, §311, oil spills and SPCC plans, §303, water quality standards and TMDLs and §401 state water quality certifications. Because most states have delegated authority under many of these sections, this change in guidance will also result in a change in the responsibilities of states in executing their duties under the CWA. While we question seriously the need for this new guidance and believe that the Agencies lack the authority to rewrite their jurisdictional limitations in this manner, one thing is clear: it is fundamentally unfair to the States and the regulated community (including our nation's farmers and other property owners) to subject lands and waters under their control to a change in legal status of this magnitude via a "guidance document." Changes in legal status should only be done, if at all, through the regulatory process, specifically under the Administrative Procedure Act, subchapter II of chapter 5, and chapter 7, of title 5, United States Code.

Because the draft guidance will substantively change how the Agencies decide which waters are subject to federal jurisdiction and will impact the regulated community's rights and obligations under the CWA, this guidance has clear regulatory consequences and goes beyond being simply advisory guidelines. The draft guidance will shift the burden of proving jurisdictional status of waters from the Agencies to the regulated communities, thus making the guidance binding and fundamentally changing the legal rights and responsibilities that they have. When an agency acts to change the rights of an individual, we believe that the agency must go through the formal rulemaking process.

We respectfully request you abandon any further action on this guidance document.

Sincerely,





John Boozman

Michael B. Enzi

[redacted]

Richard C. Shelby

Roy Blunt

John Hoeven

Highlights of Concerns

The following are a selection of the concerns we have with the draft guidance.

Interstate waters:
The Agencies' have added language to their definition of interstate waters explicitly directing field staff to use "other waters" that lie across state boundaries for jurisdictional determinations. "Other waters" include: "intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds." "Other waters" are now elevated to the same level as "navigable waters" for the purposes of determining whether or not waters are jurisdictional. Thus a geographically isolated prairie pothole that happens to be situated on a state boundary would be jurisdictional and could allow for a jurisdictional claim to be made on all other wet areas that have a "significant nexus" to the pothole. This new definition clearly goes beyond the current understanding expands the Agencies reach to previously non-jurisdictional waters.

Significant Nexus:
The new guidance makes substantial changes to what is considered a "significant nexus." Justice Kennedy's opinion in *Rapanos* stated that wetlands that have a "significant nexus" to traditional navigable waters are "waters of the United States:" "if the wetlands, either alone or in combination with similarly situated lands in the region, significantly affect the chemical, physical and biological integrity of other covered waters more reading understood as 'navigable.'" [3] Previous guidance read Justice Kennedy's language to apply to wetlands and limited the significant nexus tributaries to their higher order streams reach.

The new guidance eliminates the reach concept and applies the significant nexus test to all tributaries, wetlands, and proximate other waters that are "in the same watershed." Currently "other waters" are determined to be jurisdictional based on conditions that show their connections to interstate commerce. Additionally, waters may be aggregated and considered together, and if the category of water or wetland is determined to have a significant nexus to downstream waters, then each water or wetland in that category is considered a jurisdictional water of the United States.

The draft interim guidance dictates that determining what tributaries, wetlands, and other waters will have a "significant nexus" includes an analysis of the functions of waters to determine if they trap sediment, filter pollution, retain flood waters, and provide aquatic habitat. A significant nexus is based on both hydrological and ecological effects. A hydrological effect does not require a hydrological connection. The ability to hold water is considered an effect on downstream waters because that function arguably reduces the chances of downstream flooding. Furthermore effects on the chemical integrity of a water body on downstream waters could be reason for asserting jurisdiction, because it could show the ability to reduce the amount of pollutants that would otherwise enter a traditionally navigable water or interstate water. Biological effects include the capacity to transfer nutrients to downstream food webs or providing habitat for species that live part of their lives in downstream waters. Under this interpretation, an isolated water body can be considered to have a significant nexus to downstream waters. Again, if the category of water or wetland is determined to have a significant nexus to downstream waters, then each similarly situated water or wetland is considered jurisdictional.

"Significant nexus" is defined as any relationship that is "more than speculative or insubstantial." This is not the same as requiring a nexus actually be significant. Again, because of the expansive nature of what can be included under the "significant nexus," the draft interim guidance is likely to encompass far more waters than have been previously included. The increased scope not only of "significant nexus," but of

[3] 547 U.S. 715, 780 (2006)

what waters may be tested using this test, will likely allow the Agencies to assert jurisdiction far beyond current practice.

Tributaries and Ditches:
Like interstate waters, tributaries are considered jurisdictional under the Agencies' regulations, but do not have the extensive new definition given in this guidance. A tributary now has the physical definition of the presence of a channel with a bed and an ordinary high water mark. Additionally ditches, which were generally excluded under the current guidance, have been included as tidal ditches or non-tidal ditches newly defined as meeting one of the following: (1) the ditch is an altered natural stream, (2) the ditch was excavated in a water or wetland, (3) the ditch has relatively permanent flowing or standing water, (4) the ditch connects two or more jurisdictional waters, or (5) the ditch drains natural water bodies, such as a wetland, into a tributary system of a navigable or interstate water. The new standards for asserting jurisdiction over ditches utilize both the plurality opinion and the Kennedy significant nexus test. As the draft interim guidance asserts, many previously non-jurisdictional ditches will likely be deemed jurisdictional.

The plurality opinion was clear that the Agencies' assertion of jurisdiction over ditches and ephemeral waters was incorrect. However, the draft interim guidance document allows the Agencies to use the plurality standard as a basis for asserting jurisdiction over ditches. Furthermore, the use of the Kennedy standard for asserting jurisdiction over tributaries ignores the fact that Kennedy was skeptical about the Agencies use of an ordinary high water mark as a presumption for asserting jurisdiction. While more detailed than previous guidance, the effect is the same: nearly everything that connects to a navigable water is jurisdictional. Both the plurality opinion and Kennedy rejected this assertion in *Rapanos*.

Fw: New Control
Denis Borum to: Cassaundra Eades 07/05/2011 05:59 PM

Sandy,

Here are the names:

James M. Inhofe
Pat Roberts
Mitch McConnell
Lisa Murkowski
Lamar Alexander
Mike Crapo
Thad Cochran
Jeff Sessions
Mike Johanns
Richard G. Lugar
David Vitter
John Barrasso
Roger F. Wicker
Jon Kyl
Chuck Grassley
John Cornyn
Tom Coburn
Orrin G. Hatch
Johnny Isakson
Marco Rubio
Ron Johnson
James E. Risch
Jerry Moran
Patrick J. Toomey
Rand Paul
Saxby Chambliss
Rob Portman
Daniel Coats
Kay Bailey Hutchison
Jim DeMint
John Thune
Bob Corker
Dean Heller
Richard C. Shelby
John Boozman
Mike Lee
Michael B. Enzi
Roy Blunt
Richard Burr
John Hoeven
Lindsey Graham

----- Forwarded by Denis Borum/DC/USEPA/US on 07/05/2011 09:38 AM -----

From: Denis Borum/DC/USEPA/US
To: Cassaundra Eades/DC/USEPA/US@EPA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 3 0 2011

OFFICE OF WATER

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of June 30, 2011, to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson and Assistant Secretary of the Army for Civil Works (Army) Jo-Ellen Darcy regarding draft guidance clarifying the definition of "waters of the United States (WUS)." I understand your interest in the significant issues associated with the geographic scope of the Clean Water Act (CWA), which are so central to the Agency's mission of assuring effective protection for human health and water quality for all Americans. As the senior manager for the EPA's national water program, I appreciate the opportunity to respond to your letter.

Recognizing the importance of clean water and healthy watersheds to our economy, environment, and communities, on April 27, 2011, the EPA and the U.S. Army Corps of Engineers (Corps) released draft guidance that would update existing policies on where the CWA applies. I want to emphasize that this guidance was issued in draft and is not in effect. The agencies published the draft guidance in the *Federal Register* on May 2, 2011, and extended the public comment period until July 31, 2011. The guidance will not be made final until the EPA and the Corps review these comments and make any revisions to the guidance after careful consideration of all public input.

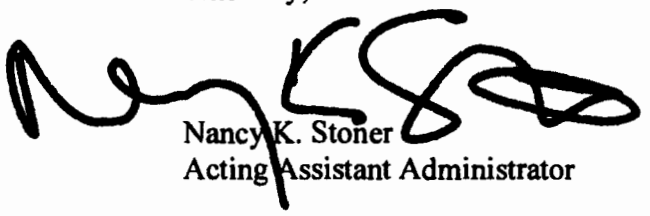
It is also important to clarify that the draft guidance would not change existing requirements of the law nor increase the geographic scope of waters currently authorized under the law and interpreted by the Courts. The extent of waters covered by the Act remains significantly less than the scope protected under the law prior to Supreme Court decisions in *SWANCC* and *Rapanos*, and the agencies' guidance cannot change that. We believe that guidance will be helpful in providing needed improvements in the consistency, predictability, and clarity of procedures for conducting jurisdictional determinations, without changing current regulatory or statutory requirements, and consistent with the relevant decisions of the Supreme Court.

I share your interest in proceeding with an Administrative Procedure Act rulemaking as soon as possible to modify the agencies' regulatory definition of the term "waters of the United States" to reflect the Supreme Court decisions in *SWANCC* and *Rapanos*. Rulemaking assures an additional opportunity for the states, the public, and stakeholders to provide comments on the scope and meaning of this key regulatory term.

Clean water provides critical health, economic, and livability benefits to American communities. Since 1972, the CWA has kept billions of pounds of pollution out of American waters, and has doubled the number of waters that meet safety standards for swimming and fishing. Despite the dramatic progress in restoring the health of the Nation's waters, an estimated one-third of American waters still do not meet the swimmable and fishable goals of the CWA. Additionally, new pollution and development challenges threaten to erode our gains, and demand innovative and strong action in partnership with Federal agencies, states, and the public to ensure clean and healthy water for American families, businesses, and communities. The EPA and the Corps look forward to working with the public, our federal and state partners, and Congress to protect public health and water quality, and promote the nation's economic security.

I appreciate the opportunity to respond to your letter. I hope you will feel free to contact me if you have additional questions or concerns, or your staff may call Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4836.

Sincerely,



Nancy K. Stoner
Acting Assistant Administrator

AL-12-000-5501

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 13 2012

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

The U.S. Environmental Protection Agency's (EPA) Superfund program will be adding the Compass Plaza Well TCE site, located in Rogersville, Missouri, to the National Priorities List (NPL) by rulemaking. The EPA received a governor/state concurrence letter supporting the listing of the site on the NPL. Listing on the NPL provides access to federal cleanup funding for the nation's highest priority contaminated sites.

Because the site is located within your state, I am providing information to help in answering questions you may receive from your constituency. The information includes a brief description of the site, and a general description of the NPL listing process.

If you have any questions, please contact me or your staff may contact Raquel Snyder, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586. We expect the rule to be published in the Federal Register in the next several days.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

Enclosures

United States Environmental Protection Agency

OSWER/OSRTI
Washington, DC 20460

NATIONAL PRIORITIES LIST (NPL)

Final Site

March 2012

COMPASS PLAZA WELL TCE | Rogersville, Missouri
Greene County

Site Location:

The Compass Plaza Well TCE site is located on the western edge of the city of Rogersville, Missouri.

Site History:

The Compass Plaza Well TCE site consists of contaminated ground water that has contaminated domestic and irrigation wells. The site includes a small cluster of wells in Greene County near Compass Plaza, a commercial area of Rogersville. Following public drinking water monitoring by the Missouri Department of Natural Resources (MDNR), trichloroethene (TCE) was detected in the Compass Plaza strip mall drinking water well and at two nearby public wells.

Site Contamination/Contaminants:

The contaminant of concern is TCE in the soil and ground water.

Potential Impacts on Surrounding Community/Environment:

There are three municipal wells within four miles of the site. Rogersville City Well #2 is only used for monitoring purposes. The Census of Missouri Public Water Systems lists the population served by the City of Rogersville's two public wells as 1,500 people. The two wells used for production (Wells #1 and #4) are located between 1-2 miles of the site. Additionally, there are 13 community and non-community wells and 557 private wells within four miles of the site.

Response Activities (to date):

Of the 557 private wells within a four mile radius, approximately 235 have been sampled. TCE was detected in the Compass Plaza strip mall drinking water well and in 13 private drinking water wells. Of these 13 private drinking water wells, six have shown TCE levels above EPA's Safe Drinking Water Act Maximum Contaminant Level (MCL). The EPA has provided water treatment systems to those residents whose private wells are contaminated with TCE above the MCL. The EPA, in cooperation with MDNR, the Greene County Resource Management and the Natural Resource Conservation Service, capped a well with high concentrations of TCE to protect ground water resources. These same agencies also oversaw the construction of a new drinking water well.

Need for NPL Listing:

The State of Missouri referred the site to the EPA. Other federal and state cleanup programs were evaluated, but they are not viable at this time. The EPA received a letter from the state supporting the listing of the site to the NPL.

[The description of the site (release) is based on information available at the time the site was evaluated with the HRS. The description may change as additional information is gathered on the sources and extent of contamination.]

For more information about the hazardous substances identified in this narrative summary, including general information regarding the effects of exposure to these substances on human health, please see the Agency for Toxic Substances and Disease Registry (ATSDR) ToxFAQs. ATSDR ToxFAQs can be found on the Internet at http://www.atsdr.cdc.gov/toxfaq.html or by telephone at 1-888-42-ATSDR or 1-888-422-8737.

United States Environmental Protection Agency

OSWER/OSRTI
Site Assessment and Remedy Decisions Branch
Washington, DC 20460

NATIONAL PRIORITIES LIST (NPL)

WHAT IS THE NPL?

The National Priorities List (NPL) is a list of national priorities among the known or threatened releases of hazardous substances throughout the United States. The list serves as an information and management tool for the Superfund cleanup process as required under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances.

There are three ways a site is eligible for the NPL:

1. **Scores at least 28.50:**
   A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (HRS), which EPA published as Appendix A of the National Contingency Plan. The HRS is a mathematical formula that serves as a screening device to evaluate a site's relative threat to human health or the environment. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for inclusion on the NPL. This is the most common way a site becomes eligible for the NPL.

2. **State Pick:**
   Each state and territory may designate one top-priority site regardless of score.

3. **ATSDR Health Advisory:**
   Certain other sites may be listed regardless of their HRS score, if all of the following conditions are met:

   a. The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Department of Health and Human Services has issued a health advisory that recommends removing people from the site;
   b. EPA determines that the release poses a significant threat to public health; and
   c. EPA anticipates it will be more cost-effective to use its remedial authority than to use its emergency removal authority to respond to the site.

Sites are first proposed to the NPL in the *Federal Register*. EPA then accepts public comments for 60 days about listing the sites, responds to the comments, and places those sites on the NPL that continue to meet the requirements for listing. To submit comments, visit www.regulations.gov.

Placing a site on the NPL does not assign liability to any party or to the owner of any specific property; nor does it mean that any remedial or removal action will necessarily be taken.

For more information, please visit www.epa.gov/superfund/sites/npl/.

AL-13-000-5919

THE WHITE HOUSE OFFICE
REFERRAL

May 21, 2013

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION COMMENTS:

ACTION REQUESTED: DIRECT REPLY W/COPY

REFERRAL COMMENTS:

DESCRIPTION OF INCOMING:

ID:	1113051
MEDIA:	EMAIL
DOCUMENT DATE:	May 20, 2013
TO:	PRESIDENT OBAMA
FROM:	THE HONORABLE ROY BLUNT UNITED STATES SENATE WASHINGTON, DC 20510
SUBJECT:	EXPRESSES THEIR CONCERN ABOUT THE ENVIRONMENTAL PROTECTION AGENCY PLANS TO ISSUE GREENHOUSE GAS NEW SOURCE PERFORMANCE STANDARD REGULATIONS FOR NEW FOSSIL FUEL-BASED ELECTRIC GENERATING SOURCES - URGES EPA TO AMEND PROPOSED RULE

COMMENTS: _____

_____

_____

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 63, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500

THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: May 20, 2013 **CASE ID: 1113051**

NAME OF CORRESPONDENT: THE HONORABLE ROY BLUNT

SUBJECT: EXPRESSES THEIR CONCERN ABOUT THE ENVIRONMENTAL PROTECTION AGENCY PLANS TO ISSUE GREENHOUSE GAS NEW SOURCE PERFORMANCE STANDARD REGULATIONS FOR NEW FOSSIL FUEL-BASED ELECTRIC GENERATING SOURCES - URGES EPA TO AMEND PROPOSED RULE

		ACTION		DISPOSITION		
ROUTE TO: AGENCY/OFFICE	**(STAFF NAME)**	**CODE**	**DATE**	**TYPE RESPONSE**	**CODE**	**DATE COMPLETED**
LEGISLATIVE AFFAIRS	MIGUEL RODRIGUEZ	ORG	05/21/2013			
ACTION COMMENTS:						
ENVIRONMENTAL PROTECTION AGENCY		R	05/21/2013			
ACTION COMMENTS:						
ACTION COMMENTS:						
ACTION COMMENTS:						
ACTION COMMENTS:						

COMMENTS: 5 ADDL SIGNEES

MEDIA TYPE: EMAIL **USER CODE:**

ACTION CODES	DISPOSITION		
	TYPE RESPONSE	**DISPOSITION CODES**	**COMPLETED DATE**
A = APPROPRIATE ACTION **B** = RESEARCH AND REPORT BACK **D** = DRAFT RESPONSE **I** = INFO COPY/NO ACT NECESSARY **R** = DIRECT REPLY W/ COPY **ORG** = ORIGINATING OFFICE	INITIALS OF SIGNER (W.H. STAFF) **NRN** = NO RESPONSE NEEDED **OTBE** = OVERTAKEN BY EVENTS	**A** = ANSWERED OR ACKNOWLEDGED **C** = CLOSED **X** = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 63, EEOB.

111 3051

Congress of the United States

Washington, DC 20510

May 20, 2013

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear President Obama:

We write to express our continued concern about the Environmental Protection Agency's (EPA) plans to issue greenhouse gas (GHG) new source performance standard regulations for new fossil fuel-based electric generating sources. The proposed rule will set an unprecedented standard under the Clean Air Act, and we urge you to consider an alternative approach to address GHG emissions in a way that will not harm our economy or endanger our electricity supply.

If adopted, the proposed EPA rule will effectively ban new coal fired power plants from being built. By EPA's own admission, the rule as proposed would increase the cost of electricity generated from a coal plant by 80%. Already, existing EPA regulations will prevent current sources from making upgrades to improve efficiency and allow for more generation with fewer emissions. This two-pronged offense to eliminate the use of coal in this country sets us on a dangerous path as a nation, threatening our economy and killing jobs.

Adding 80% to the cost of electricity would significantly hurt states like Missouri, which is heavily reliant on coal for power. Our state uses coal to power 82% of our electricity, and we enjoy some of the most reliable and affordable power in the nation.

Low-cost electricity is an engine of economic growth. The last thing families and job creators need are higher energy costs as we seek to jumpstart our economy. Further, moving toward expensive and less reliable fuels will only leave us falling behind burgeoning nations such as China and India- who are taking advantage of low-cost coal to meet their energy needs.

Our nation can continue to use coal while lowering emissions at the same time. Coal-based power generation projects are being developed across the country, using state-of-the-art technologies that are laying the foundation for advancements in power plant efficiency and reduced carbon dioxide levels. Because of these advancements in technology, the goal of near-zero emissions from coal is within sight. These advancements are allowing us to modernize the existing coal fleet, improving efficiency, reducing emissions, and continuing to produce low-cost electricity for homes, offices and factories.

We respectfully request that you urge the EPA to amend the proposed rule to exercise the option available to the agency for differentiating standards based on fuel type and to establish

supercritical coal generation technology as the performance standard for new coal-based electricity. Such an amendment will create new jobs and strengthen the economy through a technology-based approach towards reducing carbon dioxide emissions.

Sincere Regards,

Roy Blunt
United States Senator

Billy Long
Member of Congress

Sam Graves
Member of Congress

Blaine Luetkemeyer
Member of Congress

Vicky Hartzler
Member of Congress

Ann Wagner
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 27 2013

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, DC 20510

Dear Senator Blunt:

Thank you for your letter of May 20, 2013, to President Obama, co-signed by five of your colleagues, expressing your concerns about the U.S. Environmental Protection Agency's proposed new source performance standards for emissions of greenhouse gases from new fossil fuel-fired power plants.

The EPA received over 2 million comments on the proposed rule, many of which addressed issues related to technical achievability and to cost. In fact, numerous comments received by the agency addressed the issue of whether new coal-fired power plants should be required to meet the same standard as that set for new gas-fired plants. These comments, along with information about changes in the electricity sector, were carefully considered. Accordingly, as reflected in President Obama's June 25 Memorandum to the Administrator of the EPA, the agency decided to issue a new proposal and has been working to develop that proposal in light of the comments and information.

The June 25 Presidential Memorandum directs the EPA to issue its new proposal by no later than September 20, 2013, and to "issue a final rule in a timely fashion after considering all public comments, as appropriate." You have my assurance that any final rule that the EPA issues will reflect the agency's best analysis of the issues raised in your letter and of overall cost and achievability.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

Gina McCarthy
Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 2 7 2013

OFFICE OF
AIR AND RADIATION

The Honorable Vicky Hartzler
U.S. House of Representatives
Washington, DC 20515

Dear Congresswoman Hartzler:

Thank you for your letter of May 20, 2013, to President Obama, co-signed by five of your colleagues, expressing your concerns about the U.S. Environmental Protection Agency's proposed new source performance standards for emissions of greenhouse gases from new fossil fuel-fired power plants.

The EPA received over 2 million comments on the proposed rule, many of which addressed issues related to technical achievability and to cost. In fact, numerous comments received by the agency addressed the issue of whether new coal-fired power plants should be required to meet the same standard as that set for new gas-fired plants. These comments, along with information about changes in the electricity sector, were carefully considered. Accordingly, as reflected in President Obama's June 25 Memorandum to the Administrator of the EPA, the agency decided to issue a new proposal and has been working to develop that proposal in light of the comments and information.

The June 25 Presidential Memorandum directs the EPA to issue its new proposal by no later than September 20, 2013, and to "issue a final rule in a timely fashion after considering all public comments, as appropriate." You have my assurance that any final rule that the EPA issues will reflect the agency's best analysis of the issues raised in your letter and of overall cost and achievability.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

Gina McCarthy
Assistant Administrator

AL-14-001-2702

THE WHITE HOUSE OFFICE
REFERRAL

July 08, 2014

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION COMMENTS:

ACTION REQUESTED: DIRECT REPLY W/COPY

REFERRAL COMMENTS:

DESCRIPTION OF INCOMING:

ID:	1142909
MEDIA:	LETTER
DOCUMENT DATE:	June 03, 2014
TO:	PRESIDENT OBAMA
FROM:	THE HONORABLE MITCH MCCONNELL UNITED STATES SENATE WASHINGTON, DC 20510
SUBJECT:	EXPRESSES CONCERN WITH THE PRESIDENT PROPOSED RULE FOR EXISTING POWER PLANTS EMISSIONS OF GREENHOUSE GASES

COMMENTS: _____

_____

_____

PROMPT ACTION IS ESSENTIAL – IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 562, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500

THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: June 26, 2014 **CASE ID: 1142909**

NAME OF CORRESPONDENT: THE HONORABLE MITCH MCCONNELL

SUBJECT: EXPRESSES CONCERN WITH THE PRESIDENT PROPOSED RULE FOR EXISTING POWER PLANTS EMISSIONS OF GREENHOUSE GASES

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION CODE	DISPOSITION DATE
LEGISLATIVE AFFAIRS	KATIE FALLON	ORG	06/27/2014

ACTION COMMENTS:

EPA R JUL 08 2014

ACTION COMMENTS:

ACTION COMMENTS:

ACTION COMMENTS:

ACTION COMMENTS:

COMMENTS: 41 ADDL SIGNEES

MEDIA TYPE: LETTER **USER CODE:**

ACTION CODES	DISPOSITION		
A = APPROPRIATE ACTION B = RESEARCH AND REPORT BACK D = DRAFT RESPONSE I = INFO COPY/NO ACT NECESSARY R = DIRECT REPLY W/ COPY ORG = ORIGINATING OFFICE	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
	INITIALS OF SIGNER (W.H. STAFF) NRN = NO RESPONSE NEEDED OTBE = OVERTAKEN BY EVENTS	A = ANSWERED OR ACKNOWLEDGED C = CLOSED X = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 562, EEOB.

1142909

United States Senate
WASHINGTON, DC 20510

June 3, 2014

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Obama:

We write to express our concerns with your proposed rule for existing power plants emissions of greenhouse gases.

Our primary concern is that the rule as proposed will result in significant electricity rate increases and additional energy costs for consumers. These costs will, as always, fall most heavily on the elderly, the poor, and those on fixed incomes. In addition, these costs will damage families, businesses, and local institutions such as hospitals and schools. The U.S. Chamber of Commerce recently unveiled a study indicating that a plan of this type would increase America's electricity bills, decrease a family's disposable income, and result in job losses.

This proposed rule continues your Administration's effort to ensure that American families and businesses will pay more for electricity, an important goal emphasized during your initial campaign for President, and suffer reduced reliability as well. Removing coal as a power source from the generation portfolio – which is a direct and intended consequence of your Administration's rule – unnecessarily reduces reliability and market flexibility while increasing costs. As you are aware, low-income households spend a greater share of their paychecks on electricity and will bear the brunt of rate increases.

In your haste to drive coal and eventually natural gas from the generation portfolio, your Administration has disregarded whether EPA even has the legal authority under the Clean Air Act to move forward with this proposal, the dubious benefit of prematurely forcing the closure of even more base load power generation from America's electric generating fleet, and the obvious signal this past winter's cold snap sent regarding our continued need for reliable, affordable coal-fired generation.

In fact, your existing source proposal goes beyond the plain reading of the Clean Air Act, and it, like your Climate Action Plan, includes failed elements from the cap-and-trade program rejected by the United States Senate. You need only look back to June 2008 for a repudiation of that type of approach by the United States Senate. On June 2, 2008, the Senate debate began on S. 3036,

the Climate Security Act, a cap-and-trade bill, and ended in defeat on June 6, when the Senate refused to invoke cloture. Since that time, Majority Leader Harry Reid has avoided votes that would provide a record of the Senate's ongoing and consistent disapproval of your unilateral action.

Including emissions sources beyond the power plant fence as opposed to just those emissions sources inside the power plant fence creates a cap-and-trade program. As you noted in the wake of the initial failure of cap-and-trade, "There are many ways to skin a cat," and your Administration seems determined to accomplish administratively what they failed to achieve through the legislative process.

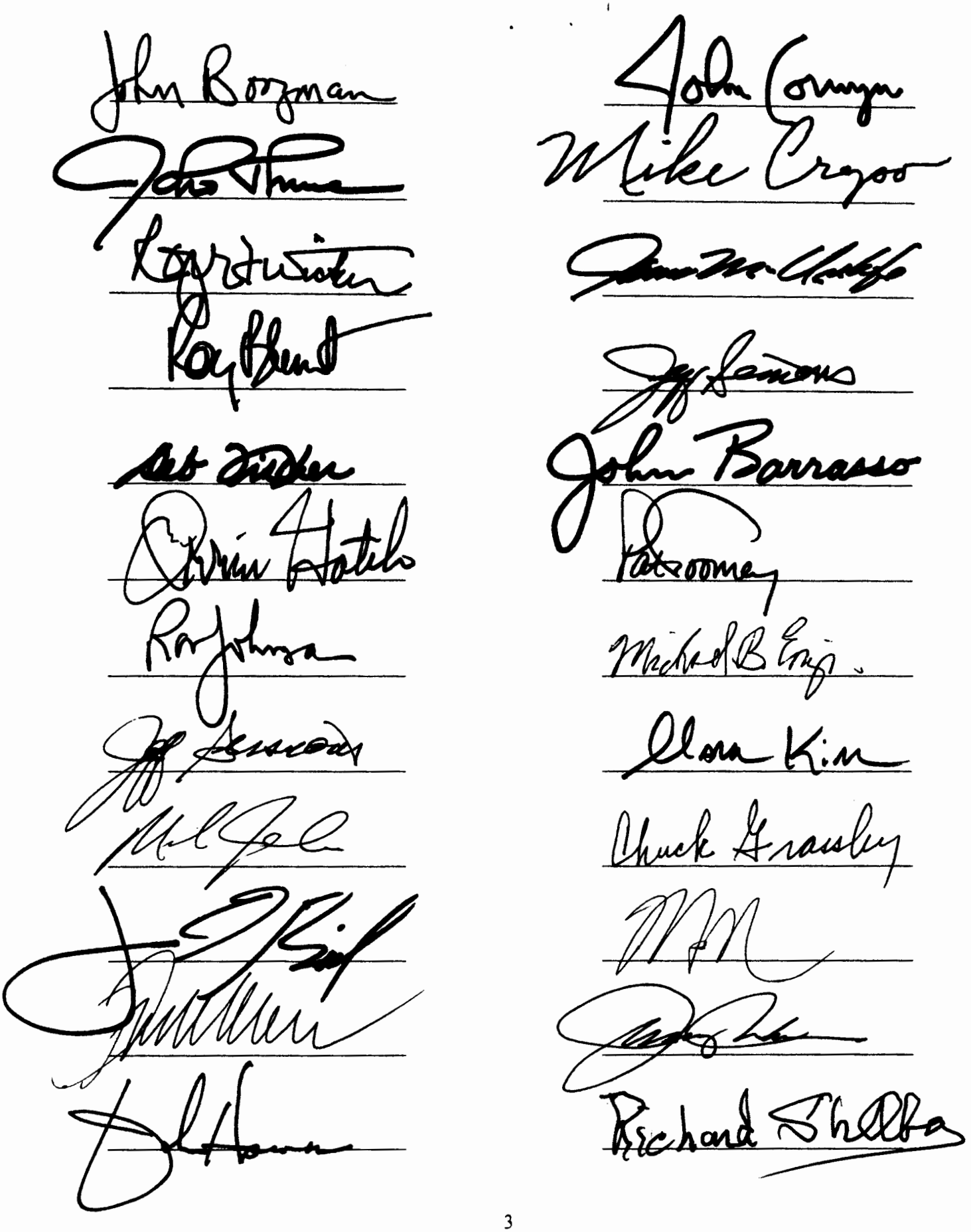
At a time when manufacturers are moving production from overseas to the U.S. and investing billions of dollars in the process, we are very concerned that an Administration with a poor management record decided to embark on a plan that will result in energy rationing, pitting power plants against refineries, chemical plants, and paper mills, for the ability to operate when coming up against EPA's emissions requirements. A management decision that eliminates access to abundant, affordable power puts U.S. manufacturing at a competitive disadvantage.

Moreover, there is substantial reason and historical experience to justify our belief that at the end of the rulemaking process, EPA will use its authority to constrain State preferences with respect to program design, potentially going so far as dictating policies that restrict when American families can do the laundry or run the air conditioning. Such impositions practically guarantee that costs, which will of course be passed along to ratepayers, will be maximized, the size and scope of the federal government will expand, and the role of the States in our system of cooperative federalism will continue to diminish.

Finally, we are concerned that there is almost no assessment of costs that will be imposed by this program. Again, if history is any guide, the costs imposed on U.S. businesses and families will be significant and far exceed EPA's own estimate. More disturbingly, the benefits that may result from this unilateral action – as measured by reductions in global average temperature or reduced sea level rise, or increase in sea ice, or any other measurement related to climate change that you choose – will be essentially zero. We know this because in 2009, your former EPA Administrator testified that "U.S. action alone would not impact world CO2 levels." If these assumptions are incorrect, please don't hesitate to provide us with the data that proves otherwise.

We strongly urge you to withdraw this rule.

Sincerely,



Lindsey Graham

Rob Portman

Lamar Alexander

Saxby Chambliss

Thad Cochran

Pat Roberts

Jerry Moran

Mitch McConnell

Richard Shelby

Jim Inhofe

Jeff Sessions

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 18 2014

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of June 3, 2014, to President Obama regarding the Clean Power Plan for Existing Power Plants that was signed by the U.S. Environmental Protection Agency Administrator Gina McCarthy on June 2, 2014, and published in the *Federal Register* on June 18, 2014. The President asked that I respond on his behalf.

Climate change induced by human activities is one of the greatest challenges of our time. It already threatens human health and welfare and our economic well-being, and if left unchecked, it will have devastating impacts on the United States and the planet. Power plants are the largest source of carbon dioxide emissions in the United States, accounting for roughly one-third of all domestic greenhouse gas emissions.

The Clean Power Plan aims to cut energy waste and leverage cleaner energy sources by doing two things. First, it uses a national framework to set achievable state-specific goals to cut carbon pollution per megawatt hour of electricity generated. Second, it empowers the states to chart their own paths to meet their goals. The proposal builds on what states, cities and businesses around the country are already doing to reduce carbon pollution, and when fully implemented in 2030, carbon emissions will be reduced by approximately 30 percent from the power sector across the United States when compared with 2005 levels. In addition, we estimate the proposal will cut the pollution that causes smog and soot by 25 percent, avoiding up to 100,000 asthma attacks and 2,100 heart attacks by 2020.

Before issuing this proposal, the EPA heard from more than 300 stakeholder groups from around the country to learn more about what programs are already working to reduce carbon pollution. These meetings, with states, utilities, labor unions, nongovernmental organizations, consumer groups, industry, and others, reaffirmed that states are leading the way. The Clean Air Act provides the tools to build on these state actions in ways that will achieve meaningful reductions and recognizes that the way we generate power in this country is diverse, complex and interconnected.

We appreciate your views about the effects of the proposal. As you know, we are currently seeking public comment on the proposal, and we encourage you and all interested parties to provide us with detailed comments on all aspects of the proposed rule. The public comment period remains open and all comments submitted, regardless of method of submittal, will receive the same consideration. The public comment period will remain open for 120 days, until October 16, 2014. We have submitted your letter to the rulemaking docket, but additional comments can be submitted via any one of these methods:

- Federal eRulemaking portal: http://www.regulations.gov. Follow the online instructions for submitting comments.
- E-mail: A-and-R-Docket@epa.gov. Include docket ID number HQ-OAR-2013-0602 in the subject line of the message.
- Fax: Fax your comments to: 202-566-9744. Include docket ID number HQ-OAR-2013-0602 on the cover page.
- Mail: Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 28221T, Attention Docket ID No. OAR–2013-0602, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- Hand Delivery or Courier: Deliver your comments to: EPA Docket Center, Room 3334, 1301 Constitution Ave., NW, Washington, DC, 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Kevin Bailey in the EPA's Office of Congressional and Intergovernmental Relations at bailey.kevinj@epa.gov or at (202) 564-2998.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL-15-000-2289

Congress of the United States

Washington, DC 20515

November 19, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington DC 20460

RE: The EPA's proposed New Source Performance Standards for warm air furnaces

Dear Administrator McCarthy:

In reviewing the proposed New Source Performance Standards (NSPS) for warm air furnaces, we found that the proposal departs from prior regulations for similar sources under Section 111(b) of the Clean Air Act (CAA), and the timeline for compliance threatens unreasonable economic damage to furnace manufacturers in the United States.[1] The proposed rule, which under the provisions of the CAA must be finalized by EPA by February 3, 2015, would prohibit the manufacture or sale of any warm air furnace that is not certified by EPA within 60 days of the final rule's publication in the Federal Register.[2] That timeline is impossible to achieve without undue harm to market participants. We ask EPA to ensure the compliance timeline for warm air furnaces is at least one year in length.

Prior to this proposal, EPA has never required emissions controls on warm air furnaces, and manufacturers will now be required to modify and submit their models to costly tests prior to certification. Mandating only 60 days to complete the necessary research and development, testing, and retooling of their manufacturing operations is beyond the capacity of many manufacturers. Additionally, EPA's Office of Enforcement and Compliance Assurance (OECA) has informed industry that certification may be unavailable until the 60-day period has expired, and the certification and testing process for manufacturers is further complicated by EPA's drive to transition from crib to cordwood testing, a development that significantly complicates the testing process for these manufacturers. This situation leaves manufacturers no choice but to cease production during the period between the rule's finalization and availability of EPA certification.

Many of the warm air furnace models manufactured are sold to retail home-improvement and hardware stores, which purchase stock several months in advance. Because of their purchasing decision timeline, these stores will now be stuck with non-certified inventory, and

[1] 79 Fed Reg 6330 (February 3, 2014).
[2] 42 U.S.C. § 7411(b)(1)(B).

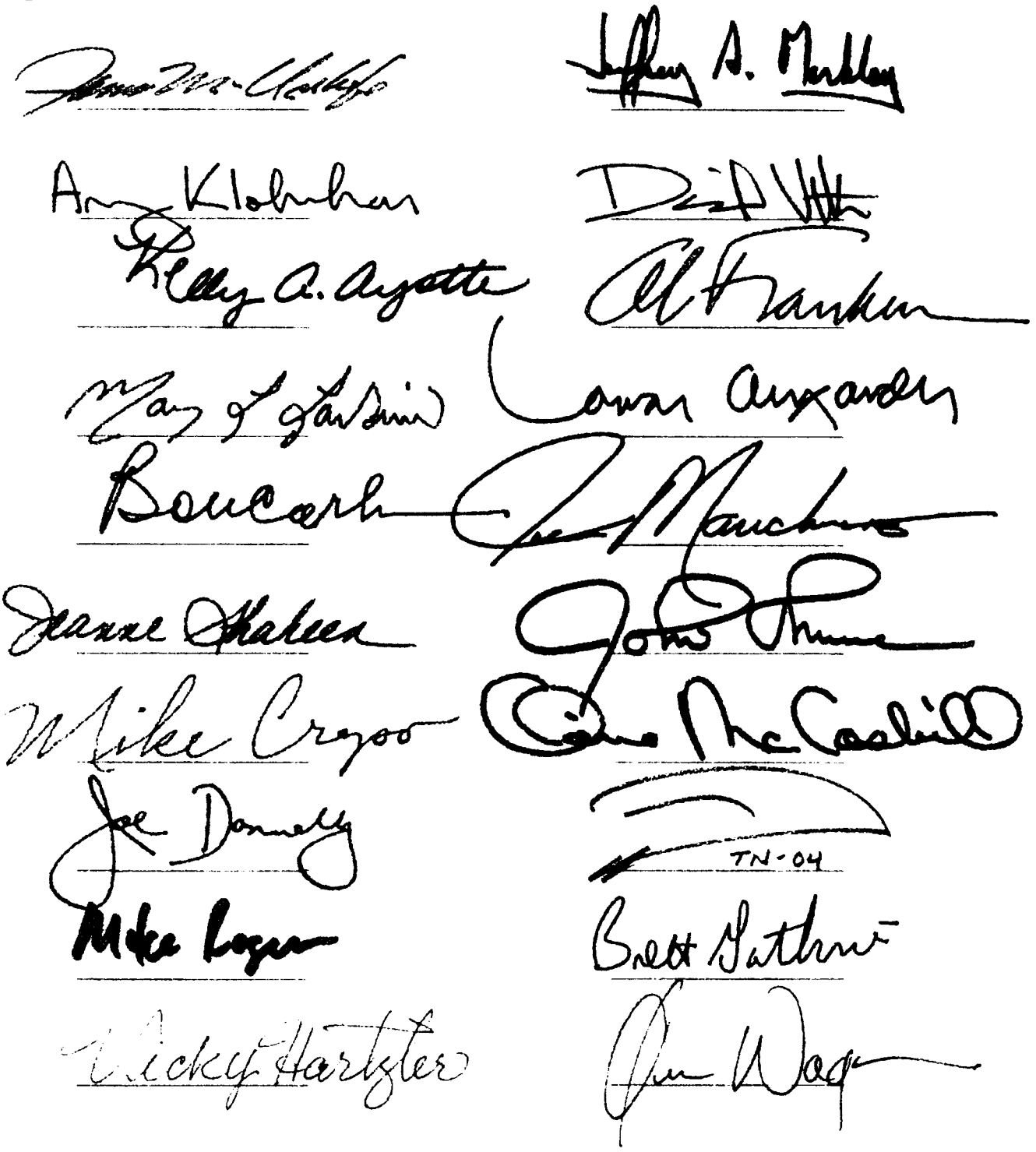
under the proposed rule, it appears they will be prevented from selling it. Because the content of the final rule remains in flux, inventory stocked for sale throughout 2015 may have to be repurchased by manufacturers at the same time that they are undertaking costly research and development, testing, and certification work.

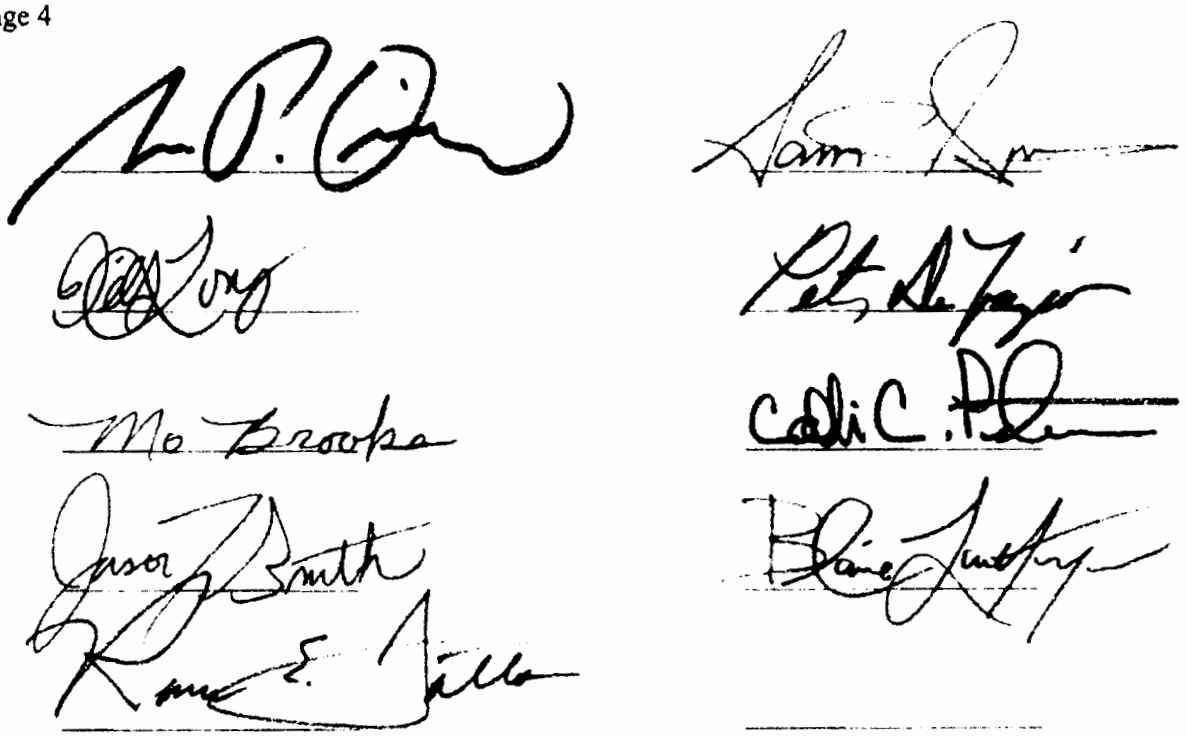
The "standards of performance" described in Section 111 of the CAA require a consideration of the cost of achieving the associated emission reductions. In this instance, the 60-day timeline for compliance exacerbates the cost. The financial burden that the proposed rule threatens to places on warm air furnace manufacturers – in the form of uncertain certification resulting in production halts as well as manufacturers having to buy back furnaces from retailers – will force many out of business, decreasing consumer choice in the marketplace and increasing unemployment. This stands in contrast to EPA's first NSPS for woodstoves, promulgated in 1988, which allowed small manufacturers a year to attain compliance[3] and staggered effective dates for all other manufacturers.[4] This year-long compliance timeline was set to explicitly ensure that manufacturers could surmount the financial and logistical challenges to certification.

We urge EPA to follow past precedence and ensure the compliance timeline for warm air furnaces is at least one year in length to give consumers, retailers, and manufacturers the certainty necessary to develop and manufacture compliant furnaces. Thank you for your time and attention to this matter.

Sincerely,

[3] *See* 52 Fed. Reg. at 5,000 (Feb. 18, 1987).
[4] *Id.* § 60.532 (1990).


TN-04



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 24 2015

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of November 19, 2014, to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding updates to the regulations governing new residential wood heaters, including warm air furnaces, proposed on January 3, 2014, and finalized on February 3, 2015. The Administrator asked that I respond on her behalf.

In your letter, you express concerns about the sell-through of warm air furnaces, referred to in our rule as forced air furnaces (FAF), and the effect on manufacturers. We recognize that this is an important issue, and distinct from the wood stoves and hydronic heaters also covered by the proposal.

Throughout this rulemaking we have been very mindful of the potential impacts on small businesses that manufacture these devices. The EPA designed the rule with small businesses and consumers very much in mind. During the proposal process, we convened a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel to help inform our proposal, which incorporated numerous recommendations to help reduce potential impacts on small businesses.

On February 3, 2015, the EPA issued the final rule, which will make new residential wood heaters significantly cleaner than currently required. We received about 6000 public comments, including comments on the issues you raise in your letter, and the final rule that takes into account these comments. In particular, the rule provides a 1-2 year transition period for manufacturers of forced air furnaces, to give them additional time before the updated emission standards would apply.

Finally, I want to underscore that the health benefits of these proposed regulations are expected to be substantial and much greater than the costs. For our final rule, we projected annual health benefits of $3.1 to $6.9 billion, compared to estimated costs of $46 million.

Information about the rule is available at http://www2.epa.gov/residential-wood-heaters, and we would be happy to provide further information or answer specific questions about the rule if you or your staff request it.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may contact Kevin Bailey in the EPA's Office of Congressional and Intergovernmental Relations at bailey.kevinj@epa.gov or (202) 564-2998.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

 AL 15-000-1173

United States Senate

WASHINGTON, DC 20510

October 23, 2014

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1300 Pennsylvania Avenue, NW
Washington, DC 20460

The Honorable John M. McHugh
Secretary of the Army
101 Army Pentagon
Washington, D.C. 20310-0101

Re: Proposed Rule to Define "Waters of the United States"
Docket ID No. EPA-HW-OW-2011-0880

Dear Administrator McCarthy and Secretary McHugh,

Despite numerous requests for the Environmental Protection Agency (EPA) and the Army Corps of Engineers (Corps) to withdraw the proposed "waters of the United States" rule, the Administration has shown it intends to pursue this unprecedented executive overreach, regardless of the consequences to the economy and to Americans' property rights. The proposed rule would provide EPA and the Corps (as well as litigious environmental groups) with the power to dictate the land use decisions of homeowners, small businesses, and local communities throughout the United States. With few exceptions, it would give the agencies virtually unlimited regulatory authority over all state and local waters, no matter how remote or isolated such waters may be from truly navigable waters. The proposed rule thus usurps legislative authority and Congress's decision to predicate Clean Water Act jurisdiction on the law's foundational term, "navigable waters."

Because the proposed "waters of the United States" rule displaces state and local officials in their primary role in environmental protection, it is certain to have a damaging effect on economic growth. Increased permitting costs, abandoned development projects, and the prospect of litigation resulting from the proposed rule will slow job-creation across the country. Similar concerns led the Small Business Administration's Office of Advocacy (SBA) to recently call for the withdrawal of the proposed rule. As SBA observed, the proposed rule will result in a "direct and potentially costly impact on small businesses," and the "[t]he limited economic analysis which [EPA and the Corps] submitted with the rule provides ample evidence of a potentially significant economic impact."[1] We join SBA and continue to urge EPA and the Corps to withdraw the proposed rule.

Undoubtedly, there is a disconnect between regulatory reality and the Administration's utopian view of the proposed "waters of the United States" rule. We believe this reflects the EPA's and the Corps' refusal to listen to the thousands of Americans who have asked that the proposed rule be immediately withdrawn. Indeed, there have been several examples of bias against the proposed rule's critics. For the record, we note that the Administration has manipulated this rulemaking in ways that appear to be designed to prejudge the outcome:

[1] Letter from SBA to the Hon. Gina McCarthy and Maj. Gen. John Peabody re: Definition of "Waters of the United States" Under the Clean Water Act (Oct. 1, 2014), available at http://www.sba.gov/sites/default/files/Final_WOTUS%20Comment%20Letter.pdf.

Bias Factor #1: The Obama Administration Claims That the Proposed "Waters of the United States" Rule Responds to Prior Requests for a Clean Water Act Rulemaking.

EPA has repeatedly claimed that the proposed "waters of the United States" rule responds to various requests for the agency to clarify the scope of Clean Water Act jurisdiction. Likewise, the Administration stated last month that the proposed rule "is responsive to calls for rulemaking from Congress, industry, and community stakeholders as well as decisions of the U.S. Supreme Court."[2]

Such assertions are wholly misleading. A request for a regulatory clarification does not provide a license to run roughshod over the property rights of millions of Americans. Yet the Obama Administration has used prior rulemaking requests as an excuse to unilaterally advance a regulatory agenda that defies the jurisdictional limits established by Congress when it enacted the Clean Water Act in 1972.

In fact, the proposed rule would harm the very landowners, small businesses, and municipalities that expressed interest in working with EPA and the Corps to address Clean Water Act jurisdictional issues. Thus, rather than respond to requests for a rulemaking, the proposed rule serves as an example for why so few Americans trust EPA.

Bias Factor #2: The Obama Administration Insinuates That Opposition to the Proposed Rule Is Equivalent to Opposition to Clean Water.

When EPA Administrator Gina McCarthy announced the proposed "waters of the United States" rule last March, she professed that the proposed rule "clarifies which waters are protected, and which waters are not."[3] Similarly, EPA's Office of Water has suggested that those who "choose clean water" should support the proposed rule.[4]

These statements insinuate that the proposed rule's critics oppose clean water. This is an insulting ploy that belies the numerous efforts made in recent years by agriculture, industry, and local officials to improve water quality throughout the country. It ignores the fact that nonfederal waterbodies are subject to local and state water quality regulations. Moreover, the Clean Water Act's emphasis that "[i]t is the policy of the Congress to recognize, preserve, and protect *the primary responsibilities and rights of States* to prevent, reduce, and eliminate pollution" negates the canard that choosing clean water requires acceding to unlimited federal regulatory authority.[5]

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[2] Executive Office of the President, Office of Management and Budget, Statement of Administration Policy re: H.R. 5078 (Sept. 8, 2014).

[3] U.S. Environmental Protection Agency, *EPA Administrator Gina McCarthy Gives an Overview of EPA's Clean Water Act Rule Proposal*, YOUTUBE (Mar. 25. 2014), http://www.youtube.com/watch?v=ow-n8zZuDYc.

[4] Travis Loop, *Do You Choose Clean Water?*, GREENVERSATIONS: AN OFFICIAL BLOG OF THE U.S. EPA Sept. 9, 2014), http://blog.epa.gov/blog/2014/09/do-you-choose-clean-water/.

[5] Federal Water Pollution Control Act § 101, 33 U.S.C. § 1251 (emphasis added).

Bias Factor #3: EPA Has Attempted to Delegitimize Questions and Concerns Surrounding the Proposed Rule.

Administrator McCarthy has described certain questions regarding the proposed rule as "ludicrous" and "silly."[6] Stakeholders have also observed how EPA officials have responded to concerns over the proposed rule with misrepresentations and a "knock on their intelligence."[7]

EPA's disparaging of the proposed rule's critics serves no one. If EPA believes concerns with the proposed rule are unwarranted, the appropriate course of action would be for the agency to respond formally in the context of the notice and comment procedures accompanying the current rulemaking. Belittling the proposal's critics only furthers the impression that EPA has predetermined the outcome of the "waters of the United States" rulemaking.

Bias Factor #4: EPA and the Corps Have Blatantly Misrepresented the Impacts of Increased Clean Water Act Jurisdiction.

EPA and the Corps have attempted to downplay the substantial outcry over the proposed "waters of the United States" rule as well as the prospect of federalizing thousands of ditches, ponds, streams, and other waterbodies. They have done so by claiming that the impacts associated with increased Clean Water Act jurisdiction are insignificant.

For example, EPA claims the proposed rule "would not infringe on private property rights," and that the Clean Water Act "is not a barrier to economic development."[8] The Corps has also stated that "when privately-owned aquatic areas are subject to Clean Water Act jurisdiction . . . [that] results in little or no interference with the landowner's use of his or her land."[9]

These assertions strain credulity. Given the history of regulatory and land use issues associated with the Clean Water Act (including numerous congressional hearings, Supreme Court cases, and real world examples of costs and hardship resulting from affirmative jurisdictional determinations), it is astonishing that any federal agency would claim that a designation of private property as "waters of the United States" does not affect the landowner's property rights.

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[6] Chris Adams, *EPA Sets Out to Explain Water Rule That's Riled U.S. Farm Interests*, NEWS & OBSERVER (July 9, 2014), http://www.newsobserver.com/2014/07/09/3995009/epa-sets-out-to-explain-water.html.

[7] Letter from J. Mark Ward, Senior Policy Analyst and General Counsel, Utah Assoc. of Counties, to Gina McCarthy and Bob Perciasepe, U.S. Environmental Protection Agency (July 18, 2014), available at http://www.kfb.org/Assets/uploads/images/capitolgovernment/utahassocofcountiesepa71814.pdf.

[8] U.S. Environmental Protection Agency, *Facts About the Waters of the U.S. Proposal*, http://www2.epa.gov/sites/production/files/2014-09/documents/facts_about_wotus.pdf.

[9] *Finding Cooperative Solutions to Environmental Concerns with the Conowingo Dam to Improve the Health of the Chesapeake Bay: Hearing Before the Subcomm. on Water and Wildlife of the S. Comm. on Environment & Public Works*, 113 Cong. 19 (2014) (Corps response to question for the record, on file with Senator David Vitter).

That such statements have come from EPA and the Corps suggests that the agencies either don't appreciate the real-world impacts of the law they're charged with administering, or they are intentionally trying to minimize the effect of the proposed rule. It is likewise not surprising that SBA, an expert agency charged with representing the views of small entities before federal agencies and Congress, has also critiqued the manner in which EPA and the Corps have estimated the proposed rule's impacts.[10]

Bias Factor #5: EPA's Social Media Advocacy in Favor of the Proposed "Waters of the United States" Rule Prejudices the Rulemaking Process.

EPA staff are asking the public to influence the agency's view of the proposed "waters of the United States" rule. In fact, the Twitter account for EPA's Office of Water is now essentially a lobbyist for the proposed rule. A few months ago, EPA established a website called "Ditch the Myth," which declares that the proposed rule "clarifies protection under the Clean Water Act for streams and wetlands that form the foundation of the nation's water resources."[11] The agency has now gone so far as to solicit others to seek to influence EPA regarding the proposed rule, urging social media users to "show their support for clean water and the agency's proposal to protect it."[12] These actions raise serious questions about compliance with the Anti-Lobbying Act.[13]

The integrity of the rulemaking process is in jeopardy, if not already tainted. EPA's social media advocacy removes any pretense that the agency will act as a fair and neutral arbiter during the rulemaking. Why should any landowner believe that EPA will seriously and meaningfully examine adverse comments regarding the proposed rule's impact on ditches, for example, when the agency has already pronounced that the proposed rule "reduces regulation of ditches"?[14] Why should state officials believe that their concerns with the proposed rule will be fully considered, when EPA has already determined that the proposed rule "fully preserves and respects the effective federal-state partnership . . . under the Clean Water Act"?[15]

EPA's social media advocacy is a firm indicator that adverse comments will receive scant attention during the rulemaking period. We question whether the "waters of the United States" rulemaking can be conducted in accordance with the Administrative Procedure Act and its objective that agencies "benefit from the expertise and input of the parties

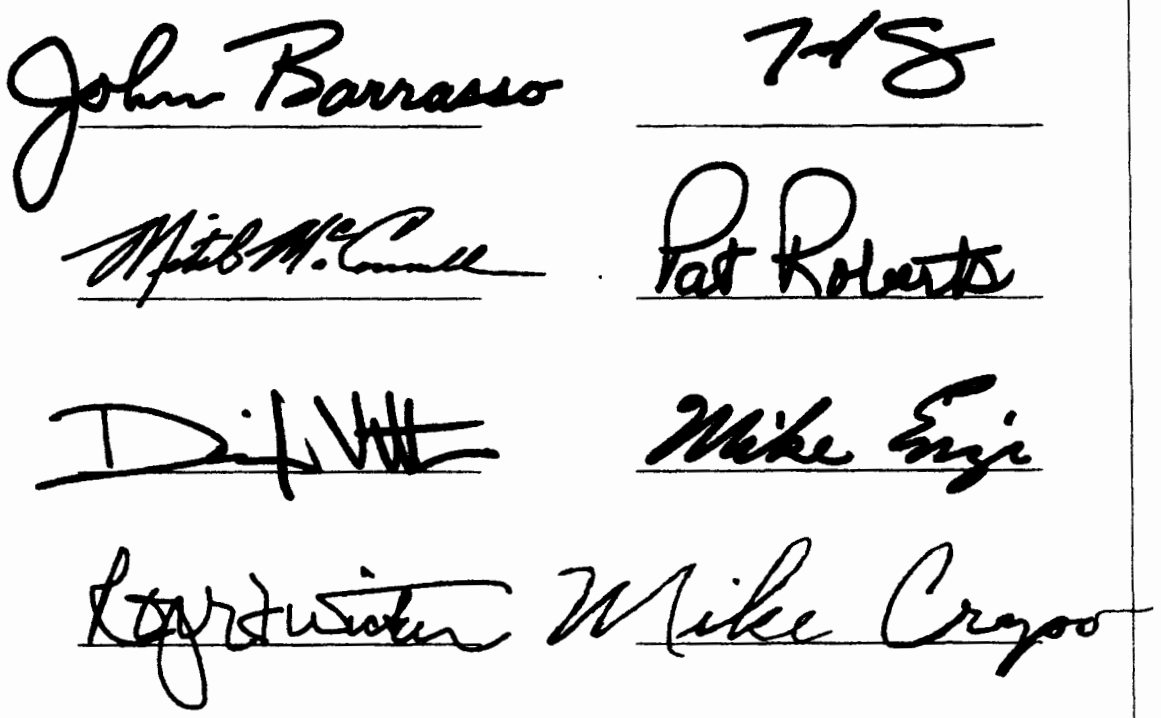
[10] *See* SBA Letter, *supra* n.1.
[11] DITCH THE MYTH, http://www2.epa.gov/uswaters/ditch-myth.
[12] U.S. Environmental Protection Agency, *Water Headlines for the Week of September 9, 2014*, http://water.epa.gov/aboutow/ownews/waterheadlines/May-6-2014-Issue.cfm.
[13] *See* 18 U.S.C. § 1913 (prohibiting the use of appropriated federal funds for the "personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation").
[14] *See* DITCH THE MYTH, *supra* note 11.
[15] *See id.*

who file comments with regard to [a] proposed rule" and "maintain a flexible and open minded attitude towards its own rules." [16]

We are dismayed that the Administration has failed to adhere to its impartial obligations under the law. Moreover, this bias has been reflected in comments from NGOs as well. Based on similar statements from groups such as Organizing for Action, Natural Resources Defense Council, and Clean Water Action, it is as though the Administration and its environmentalist allies are of one mindset, eager to paint the proposed rule's critics as anything other than concerned citizens.

At the same time, although the above groups are entitled to have a misguided and flawed perspective on the proposed "waters of the United States" rule, the Administration owes the American people a higher level of discourse. To date, however, this rulemaking has been plagued by administrative bias and prejudicial grandstanding. It is therefore incumbent on EPA and Corps to reverse course, withdraw the proposed rule, and commit to working more cooperatively with interested stakeholders in future regulatory proceedings.

Sincerely,



[16] *McClouth Steel Prod. Corp. v. Thomas*, 838 F.2d 1317, 1325 (D.C. Cir. 1988) (interpreting 5 U.S.C. § 553; internal quotations omitted). *See also* Letter from Waters Advocacy Coalition to EPA Administrator Gina McCarthy and Secretary of the Army John M. McHugh re: Proposed Rule to Define "Waters of the United States" (Sept. 29, 2014) ("The [Administrative Procedure Act] does not allow [EPA and the Corps] to keep altering the regulatory landscape throughout the rulemaking process. Indeed, the public cannot be expected to provide meaningful comment on a moving target."), available at http://www.fb.org/tmp/uploads/wacletter092914.pdf.

Chuck Grassley

Orrin Hatch

John Boozman

John Cornyn

Marco Rubio

Jerry Moran

Mike Johanns

Jim Risch

Rand Paul

FEB -4 2015

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your October 23, 2014, letter to the U.S. Environmental Protection Agency and the U.S. Department of the Army regarding the EPA's and the U.S. Department of the Army's proposed rulemaking to define the scope of the Clean Water Act consistent with science and the decisions of the Supreme Court. The agencies' current rulemaking process is among the most important actions we have underway to ensure reliable sources of clean water on which Americans depend for public health, a growing economy, jobs, and a healthy environment.

We appreciate your concern regarding the importance of working effectively with the public as the rulemaking process moves forward. We are actively working to respond to this critical issue. In order to afford the public greater opportunity to benefit from the EPA Science Advisory Board's reports on the proposed jurisdictional rule and on the EPA's draft scientific report, "Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence," and to respond to requests from the public for additional time to provide comments on the proposed rule, the agencies extended the public comment period on the proposed rule to November 14, 2014.

During the public comment period, the agencies met with stakeholders across the country to facilitate their input on the proposed rule. We talked with a broad range of interested groups including farmers, businesses, states and local governments, water users, energy companies, coal and mineral mining groups, and conservation interests. In October 2014, the EPA conducted a second small business roundtable to facilitate input from the small business community, which featured more than 20 participants that included small government jurisdictions as well as construction and development, agricultural, and mining interests. Since releasing the proposal in March, the EPA and the Corps conducted unprecedented outreach to a wide range of stakeholders, holding nearly 400 meetings all across the country to offer information, listen to concerns, and answer questions. The agencies recently completed a review by the Science Advisory Board on the scientific basis of the proposed rule and will ensure the final rule effectively reflects its technical recommendations. These actions represent the agencies' commitment to provide a transparent and effective opportunity for all interested Americans to participate in the rulemaking process.

It is important to emphasize that the proposed rule would reduce the scope of waters protected under the Clean Water Act compared to waters covered during the 1970s, 80s, and 90s to conform to decisions of the Supreme Court. The rule would limit Clean Water Act jurisdiction only to those types of waters that have a significant effect on downstream traditional navigable waters - not just any hydrologic

connection. It would improve efficiency, clarity, and predictability for all landowners, including the nation's farmers, as well as permit applicants, while maintaining all current exemptions and protecting public health, water quality, and the environment. It uses the law and sound, peer-reviewed science as its cornerstones.

America thrives on clean water. Clean water is vital for the success of the nation's businesses, agriculture, energy development, and the health of our communities. We are eager to define the scope of the Clean Water Act so that it achieves the goals of protecting clean water and public health, and promoting jobs and the economy.

Thank you again for your letter. We look forward to working with Congress as our Clean Water Act rulemaking effort moves forward. Please contact us if you have additional questions on this issue, or your staff may contact Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at borum.denis@epa.gov or (202) 564-4836, or Mr. Chip Smith in the Office of the Assistant Secretary of the Army (Civil Works) at charles.r.smith567.civ@mail.mil or (703) 693-3655.

Sincerely,

Jo-Ellen Darcy
Assistant Secretary of the Army (Civil Works)
U.S. Department of the Army

Kenneth J. Kopocis
Deputy Assistant Administrator for Water
U.S. Environmental Protection Agency

AL 11-000-6101

United States Senate

WASHINGTON, DC 20510

April 18, 2011

Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

Thank you for appearing before the Senate Interior Appropriations Subcommittee on March 16th. We are writing to follow up with you about the final Boiler MACT rules and to ascertain your agency's intention to accept further public comment through the reconsideration process.

We are particularly concerned about the negative potential impact EPA's final Boiler MACT rules will have on U.S. manufacturers. Businesses affected by the Boiler MACT regulations are diligently working to understand the multifaceted impact of the rules. Due to the complex nature of the rule, however, it is taking longer than anticipated to fully determine the impact.

Although EPA has made progress since the draft rule was issued last year, we are troubled that initial industry estimates indicate that EPA's final Boiler MACT rules could still lead to thousands of additional job losses. We find very little reassurance in EPA's claim that the cost of the final rule has been lowered by 50 percent, because lowering the costs of a regulation does not automatically equate to making it affordable for businesses. The estimates included in testimony by the American Forest & Paper Association last month show that the rule could result in more than $3 billion in capital costs for the forest products industry alone, and well over $11 billion for all manufacturing.

To ensure that the public, industry, and stakeholders have an opportunity to participate in providing the EPA with constructive comments on the cost of compliance and the real-world achievability of the standard, we ask that you take into consideration the complexity of the rule and at a minimum provide ample opportunity for review and feedback through the administrative process. We look forward to learning how the rule can be changed under the administrative reconsideration process, and are also eager to learn the dates and duration of the reconsideration period so we may inform our constituents of the timeline.

Recognizing that EPA previously sought a 15-month extension to review the public comments and industry feedback and was only granted a one-month extension by the court, we look forward to working together to ensure that EPA has sufficient time to review the comments and reexamine the rule. As EPA begins the reconsideration process, we urge the agency to carefully consider the public comments and advance a regulation that protects the environment and public health while fostering economic recovery and preserving jobs.

Sincerely,

Lisa Murkowski
U.S. Senator

Susan M. Collins
U.S. Senator

Mary L. Landrieu
U.S. Senator

Lamar Alexander
U.S. Senator

Jon Tester
U.S. Senator

Roy Blunt
U.S. Senator

Thad Cochran
U.S. Senator

Ben Nelson
U.S. Senator

Ron Johnson
U.S. Senator

Barbara A. Mikulski
U.S. Senator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP - 2 2011

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

I am writing in response to your letter of April 18, 2011, co-signed by 9 of your colleagues, regarding the emissions standards the U.S. Environmental Protection Agency (EPA) issued in February to limit hazardous air pollution from industrial, commercial, and institutional boilers and process heaters ("boiler air toxics standards"). I am writing to update you on the agency's work to carry out that Congressional mandate.

The boiler air toxics standards are required by the 1990 Amendments to the Clean Air Act. The EPA proposed boiler air toxics standards for public comment in June 2010, after previously-issued standards were vacated by a federal court. A large number of businesses and other institutions submitted comments on the proposed standards. As a result of the comments and new data that were submitted, the EPA determined that extensive revisions to the proposed standards were appropriate. In December 2010, the EPA requested that the federal District Court for the District of Columbia grant the Agency additional time for review to ensure that the public's input was fully addressed. However, the court granted the EPA only 30 days.

The EPA met this deadline in February 2011 by issuing final standards that maintained maximum public health benefits while cutting the projected cost of implementation dramatically. I am proud of the work that the EPA did to craft protective, sensible standards for controlling hazardous air pollution from boilers and process heaters. The standards reflect what industry had told the agency about the practical reality of operating these units.

When the Agency finalized these standards in February, we announced that we would reconsider certain aspects of the standards. Since then, the agency has provided additional detail about the reconsideration process. First, the EPA announced that we were postponing the effective date of the standards for major source boilers during the pendency of litigation and to allow the Agency to continue to consider additional data and to seek additional public comment as we reconsider these standards. Second, we announced in May that we would accept additional data and information regarding potential reconsideration of these standards until July 15, 2011. Third, we announced that we intend to issue a proposed reconsideration decision by the end of October 2011 and to finalize a decision by the end of April 2012. This schedule will allow the agency to base the final standards on the best available data and provides the public with ample opportunity to provide additional information and input.

We respectfully request that EPA use this time to take the steps necessary to promulgate a rule that protects public health and the environment, but does not impose unwarranted burdens on the brick industry. We believe such an approach would include the following:

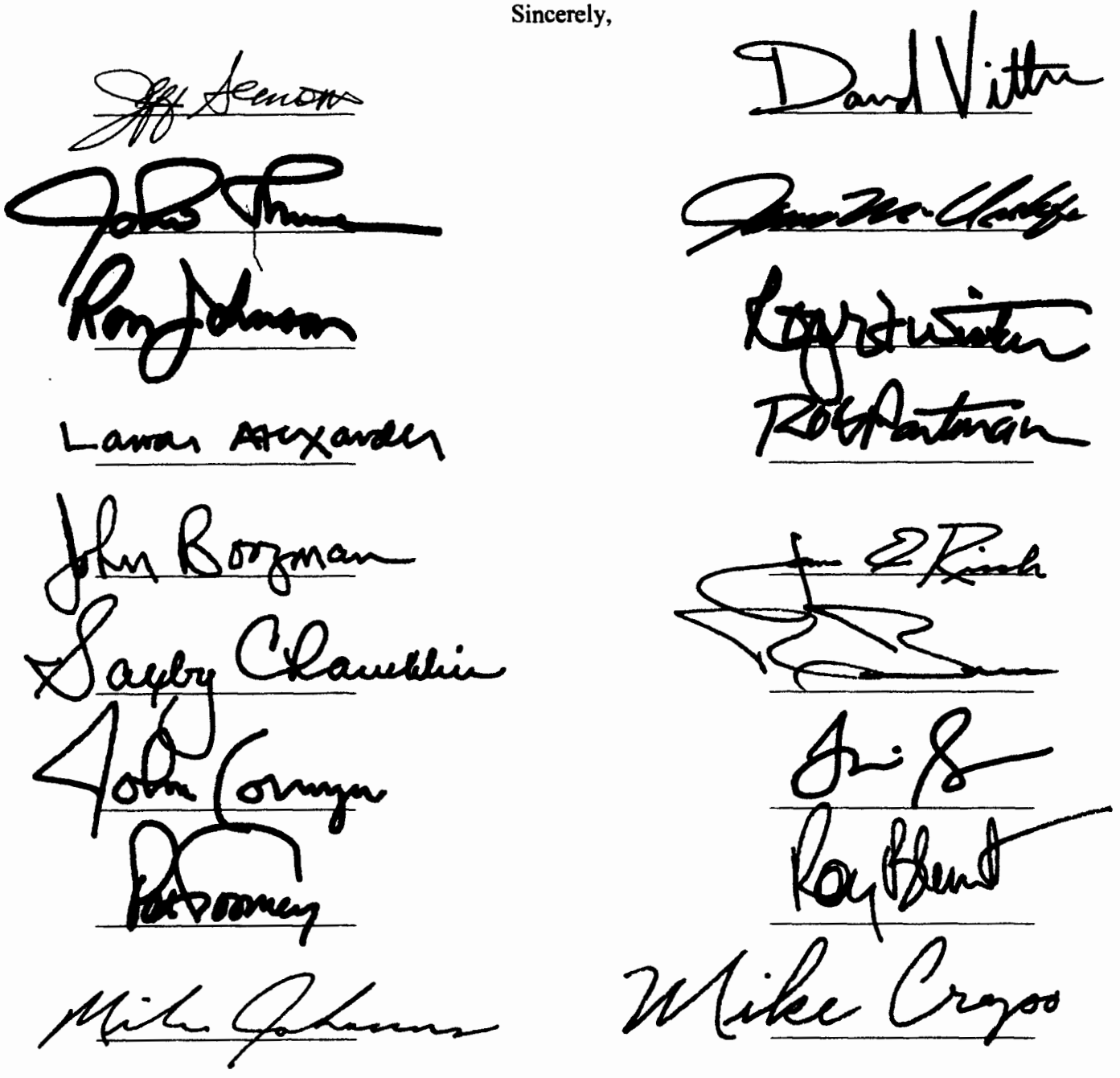
1. **Consideration of Work Practice Standards and Accurate Regulatory Burden Estimates.** We urge EPA to use its authority in the CAA to consider work practice standards, wherever reasonable, including for the relatively small amount of metal HAP emissions, including mercury. This review should include an assessment of whether work practice standards are warranted for all pollutants not covered by a health-based standard. EPA is currently considering very expensive controls for the minimal amounts of mercury that the brick industry emits. The brick industry is on the list for MACT development because of acid gasses, not metal emissions, and to absorb crippling control costs to receive minor reductions in the amount of mercury and metals the industry emits may not be justified or even required to meet the requirements of the Clean Air Act. In addition, since EPA's estimated annual compliance costs are significant (running well over $150,000,000 per year) and the rule will impact a substantial number of small businesses, thoughtful consideration of the additional reviews required to comply with the Regulatory Flexibility Act (RFA) are critical. EPA must develop a thorough Initial Regulatory Flexibility Analysis that assesses the impacts on small businesses and examines less burdensome alternatives. EPA must also provide accurate estimates of the costs of the rule and a reasonable determination of the technical feasibility of control devices to meet the standard as an essential part of an initial RFA. We believe work practice standards could both protect the environment and eliminate unwarranted burdens.

2. **Health-based standard.** CAA Section 112(d)(4) allows for consideration of health-based thresholds when establishing MACT standards for a category. While this action is discretionary under the CAA, the unique MACT on MACT situation discussed above, as well as the limited quantity of emissions generated by brick manufactures justify full consideration of the health-based approach for standards set pursuant to this rule. If EPA chooses not to pursue a health-based approach to this regulation, we ask that EPA explain fully why this approach is not reasonable for this industry.

3. **Establish reasonable subcategories.** The CAA provides ample authority for EPA to use its discretion to establish subcategories when evaluating MACT for an industry. We urge EPA

Thank you for considering the incorporation of these environmentally-responsible and cost-conscious approaches as EPA develops the proposed Brick MACT rule. A reasonable standard will ensure that human health and the environment are protected and that this essential industry can continue to thrive, generate jobs in our states, and help our struggling economy rebound.

Sincerely,



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 13 2014

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, DC 20510

Dear Senator Blunt:

Thank you for your letter of November 13, 2013, co-signed by 17 of your colleagues, to U.S. Environmental Protection Agency Administrator Gina McCarthy, regarding standards that the EPA is in the process of developing for the brick industry. The Administrator has asked that I respond on her behalf.

The EPA is required to set national emissions standards for hazardous air pollutants (NESHAP) under section 112(d) of the Clean Air Act (CAA). As you mention in your letter, although the EPA issued a NESHAP for this industry in 2003, the United States Court of Appeals for the District of Columbia Circuit vacated that rule in 2007. We are in the process of developing a new rule in response to the vacatur. The brick and structural clay manufacturing industry remains unregulated under CAA section 112(d) because no federal 112(d) standard is in place. Sources in this industry emit a number of air toxics, including hydrogen fluoride, hydrogen chloride and toxic metals (such as antimony, arsenic, beryllium, cadmium, chromium, cobalt, mercury, manganese, nickel, lead and selenium).

Your letter asks that the EPA consider work practice standards, wherever reasonable, and that we assess the cost impacts that the proposed standards will have on the brick industry. We agree that in some cases work practices may be appropriate, and we are assessing the potential use of work practice standards where it is reasonable and consistent with the requirements of the CAA. The EPA analyzes the costs that may be associated with all proposed rules and will conduct a regulatory impact analysis (RIA) to thoroughly assess the impacts.

You ask that we consider health-based standards and that we use our discretion to establish subcategories. We are aware of the brick industry's desire that we set health-based standards and we will consider them as we develop the proposed rule. We also agree that subcategorization is an important consideration and we are evaluating all potential subcategories that may be appropriate for the brick industry.

In closing, I would like to underscore that we are sensitive to the impact that this rulemaking may have on the brick industry. As we go forward, we are considering a variety of options based on the diversity of process units, operational characteristics and other factors affecting hazardous air pollutant emissions. I can assure you that we will consider the concerns of the brick industry as we develop the proposed rule.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Kevin Bailey in the EPA's Office of Congressional and Intergovernmental Relations at bailey.kevin@epa.gov or (202) 564-2998.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL 14-000-1718

THE WHITE HOUSE OFFICE
REFERRAL

November 14, 2013

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION COMMENTS:

ACTION REQUESTED: DIRECT REPLY W/COPY

REFERRAL COMMENTS:

DESCRIPTION OF INCOMING:

ID:	1124374
MEDIA:	LETTER
DOCUMENT DATE:	September 27, 2013
TO:	PRESIDENT OBAMA
FROM:	THE HONORABLE ROY BLUNT UNITED STATES SENATE WASHINGTON, DC 20510
SUBJECT:	EXPRESSES THEIR CONCERN ABOUT THE EPA PLANS TO REGULATE GREENHOUSE GAS EMISSIONS FROM THE NEW AND EXISTING FOSSIL FUEL-BASED ELECTRIC GENERATING PLANTS

COMMENTS: _____

_____

_____

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 83, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500

THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: October 21, 2013 **CASE ID: 1124374**

NAME OF CORRESPONDENT: THE HONORABLE ROY BLUNT

SUBJECT: EXPRESSES THEIR CONCERN ABOUT THE EPA PLANS TO REGULATE GREENHOUSE GAS EMISSIONS FROM THE NEW AND EXISTING FOSSIL FUEL-BASED ELECTRIC GENERATING PLANTS

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION CODE	ACTION DATE	DISPOSITION TYPE RESPONSE	DISPOSITION CODE	DISPOSITION DATE COMPLETED
LEGISLATIVE AFFAIRS	MIGUEL RODRIGUEZ	ORG	10/23/2013			

ACTION COMMENTS:

✓EPA R 11/14/13

ACTION COMMENTS:

ACTION COMMENTS:

ACTION COMMENTS:

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COMMENTS: 6 ADDL SIGNEES

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MEDIA TYPE: LETTER **USER CODE:**

ACTION CODES	DISPOSITION		
	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
A = APPROPRIATE ACTION B = RESEARCH AND REPORT BACK D = DRAFT RESPONSE I = INFO COPY/NO ACT NECESSARY R = DIRECT REPLY W/ COPY ORG = ORIGINATING OFFICE	INITIALS OF SIGNER (W.H. STAFF) NRN = NO RESPONSE NEEDED OTBE = OVERTAKEN BY EVENTS	A = ANSWERED OR ACKNOWLEDGED C = CLOSED X = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 63, EEOB.

112 4374

Congress of the United States
Washington, DC 20515

September 27, 2013

The Honorable Barack Obama
President of the United States of America
The White House
1600 Pennsylvania Avenue, Northwest
Washington, D.C. 20500

Dear Mr. President:

As federally elected officials from Missouri, we are writing to express our continued concern about the Environmental Protection Agency's (EPA) plans to regulate greenhouse gas (GHG) emissions from new and existing fossil fuel-based electric generating plants. With thoughtful policies we can address GHG emissions while assuring our nation's continued prosperity and economic competitiveness powered by coal, which is America's most abundant energy source.

Coal-based electricity generation provides approximately 80 percent of Missouri's electricity. Low-cost and reliable coal-based electricity is the primary reason Missouri is a leading manufacturing state and home to many job creators seeking competitive and stable energy prices. Low-cost coal-based electricity also benefits Missouri families by leaving them with more disposable income for health care, food and other necessities which maintains and improves their standard of living. Our national policies must support maintaining the economic security afforded by coal-based electricity generation.

The EPA's pending proposal for new power plants would establish a de facto ban on new coal-fired power plants. Advanced, high-efficiency coal technologies available today for new plants can reduce carbon dioxide emissions by as much as 40 percent compared to the older plants they would replace. China and other nations are building these new plants now in order to further increase their competitive advantage in the global marketplace. With the EPA's recent decision to reconsider the pending rule, it is important that any new proposal reflects standards achievable by currently available "best in class" coal electricity generation technologies.

Tens of billions of dollars are being invested to upgrade existing coal-based power plants to meet the most recent EPA rules. Much of this investment, along with the reliability and cost of electricity, will be placed at grave risk by any future GHG standards for existing power plants. We urge you to reject policies which would inflict further harm to the coal-based electricity generation which provides our residents and businesses the reliable and affordable power they need to prosper.

We respectfully request that our federal government not impose more EPA regulations which will negatively impact Missouri families, businesses, workers and employers. Missourians simply cannot afford to be burdened any more than we already are.

Thank you for your time and consideration.

Respectfully,

Roy Blunt
United States Senator

Billy Long
Member of Congress

Sam Graves
Member of Congress

Blaine Luetkemeyer
Member of Congress

Vicky Hartzler
Member of Congress

Ann Wagner
Member of Congress

Jason Smith
Member of Congress

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 16 2014

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, DC 20510

Dear Senator Blunt:

Thank you for your letter of September 27, 2013, to President Obama, co-signed by six of your colleagues, expressing your concerns about the U.S. Environmental Protection Agency's proposed New Source Performance Standards for emissions of greenhouse gases (GHG) from new fossil fuel-fired power plants as well as plans to address GHG emissions from existing power plants. The EPA also refers to the standards as the Carbon Pollution Standards. I have been asked to respond on the agency's behalf.

In your letter, you request that the EPA not issue regulations that will negatively impact Missouri families. I assure you that the EPA is working hard to develop rules for both new and existing power plants that will be achievable, cost-effective and consistent with the continued availability of reliable and affordable energy for American families. Fossil fuel-fired power plants are the largest contributor to greenhouse gas emissions in the United States, and climate change poses a serious threat to human health and the environment. In June 2013, President Obama called on agencies across the federal government, including the EPA, to take action to cut carbon pollution to protect our country from the impacts of climate change, and to lead the world in this effort. His call included a directive for the EPA "to work expeditiously to complete carbon pollution standards for both new and existing power plants." Currently, there are no federal standards in place to reduce carbon pollution from the country's largest source.

In September, the EPA proposed new source performance standards for emissions of greenhouse gases from new fossil fuel-fired plants. These proposed standards are practical, flexible, and achievable and ensure that power companies investing in new fossil fuel-fired power plants will use modern technologies that limit emissions of harmful carbon pollution. The EPA will finalize these standards in a timely manner, after considering public comments on the proposal. The comment period on this proposal will end on March 10, 2014. We will hold a public hearing on this proposal in Washington, D.C. on February 6, 2014. I encourage you to share this information widely, and look forward to receiving your comments as well as those of your constituents.

As we consider guidelines for existing power plants, the EPA is engaged in vigorous and unprecedented outreach with the public, key stakeholders, and the states, including Missouri. The eleven listening sessions the EPA held throughout the country were attended by thousands of people, representing many states and a broad range of stakeholders, including many from the coal industry. In addition, the EPA

leadership and senior staff, in Washington, D.C. and in every one of our ten regional offices, have been meeting with industry leaders and CEOs from the coal, oil, and natural gas sectors; state, tribal, and local government officials from every region of the country, including Missouri; and environmental and public health groups, faith groups, labor groups, and others. Our meetings with state governments have encompassed leadership and staff from state environment departments, state energy departments and state public utility commissions. We are doing this because we want—and need—all available information about what is important to each state and stakeholder. We know that guidelines require flexibility and sensitivity to state and regional differences.

To this end, we welcome feedback and ideas from you as well as your constituents about how the EPA should develop and implement carbon pollution guidelines for existing power plants under the Clean Air Act. Interested stakeholders can send their thoughts through email at carbonpollutioninput@epa.gov. Stakeholders can also learn more about what we are doing at www.epa.gov/carbonpollutionstandard. I welcome you to provide a link to our website from yours, and to share any other information about the EPA's public engagement activities with the citizens of your state.

Please note that the public meetings we've been holding to date and other outreach efforts are happening well before we propose guidelines. When we issue the draft guidelines in June 2014, a more formal public comment period will follow, as with all rules, and more opportunities for public hearings and stakeholder outreach and engagement. I look forward to hearing what you think about the draft guidelines at that time, too.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in EPA's Office of Congressional and Intergovernmental Relations at lewis.josh@epa.gov or at (202) 564-2095.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

Sanders, LaTonya R7-14-000-6034-C

From: Bond, Patrick (McCaskill) [Patrick_Bond@mccaskill.senate.gov]
Sent: Friday, February 28, 2014 2:42 PM
To: Sanders, LaTonya; Distefano, Nichole
Subject: Delegation Letter RE: Westlake
Attachments: 02.28.14 Westlake Letter to EPA Region 7.pdf

Attached is a letter that went into the mail today to Karl Brooks RE: the Westlake site.
Please let me know if you have any questions.
Thanks,
Pat

Congress of the United States
Washington, DC 20510

February 28, 2014

Karl Brooks
Region 7 Administrator
Environmental Protection Agency
11201 Renner Blvd.
Lenexa, KS 66219

Dear Administrator Brooks:

As you know, the radiologically impacted material at the Westlake Landfill site and the subsurface smoldering event at the Bridgeton Sanitary Landfill continue to be issues of great concern to us and our constituents in the greater St. Louis community.

We appreciate the Environmental Protection Agency's efforts in addressing the immediate concern of isolating the Westlake site from the subsurface smoldering event at the Bridgeton Landfill and your efforts to keep the community informed of your efforts. However, going forward we believe that the Agency should work with the Army Corps of Engineers and its Formerly Utilized Sites Remedial Action Program (FUSRAP) operations in the St. Louis area.

The St. Louis Corps' handling of similar radiologically impacted material at the St. Louis Downtown Site, the St. Louis Airport Site and Vicinity Properties, Latty Avenue, and the Madison Site has been a well-documented success. Given the Corps' expertise in this area, and the local community's faith in the Corps' FUSRAP mission, we request that the EPA consider contracting directly with the Corps to handle any and all remediation needed at the site. Additionally, we believe that it would also be beneficial for the Agency to contract with the Corps to conduct the ongoing review of the Record of Decision to determine the appropriate long-term remediation.

We appreciate your consideration of our request and look forward to your response.

Sincerely,

Claire McCaskill
United States Senator

Roy Blunt
United States Senator

Wm. Lacy Clay
Member of Congress

Ann Wagner
Member of Congress

AL 14-000-8056

ROY BLUNT
MISSOURI

VICE CHAIR, SENATE REPUBLICAN CONFERENCE

260 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2508
202-224-5721

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
APPROPRIATIONS
ARMED SERVICES
COMMERCE, SCIENCE AND TRANSPORTATION
RULES AND ADMINISTRATION

March 18th, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1001A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator McCarthy,

I am writing in regard to the Environmental Protection Agency's (EPA) recently proposed New Source Performance Standards (NSPS) for residential wood stoves, announced on January 3rd, 2014. I have serious concerns this rule will hurt small wood stove manufacturers and could make the burning of wood in households prohibitively expensive.

This rule will primarily fall on the backs of small businesses. Of the wood stove manufacturers, only a minority in the industry currently produce wood stoves which meet the proposed standard. Your agency's own estimates have found the rule will result in an annual increase of $127,000 in new costs for these businesses. It would also affect the many others that participate in the industry such as building supply stores, hardware stores, fire wood suppliers, electric cooperatives and insurance companies.

Most importantly, this rule will directly affect the nearly 12 million U.S. households that use wood heaters as a way to keep their homes warm. Many homeowners find the burning of wood to heat homes to be a reliable and affordable source of fuel.

This Administration has spent considerable effort to promoting renewable sources of energy. Because of this I am surprised the EPA appears to be hampering the wood stove industry, which provides access to an abundant renewable fuel.

As the EPA continues to evaluate and receive feedback for its proposed NSPS for residential wood stoves, I hope you will keep these concerns in mind and listen to those most directly impacted by these regulations. Thank you for your attention to this important issue.

Sincere regards,

Roy Blunt

Senator Roy Blunt

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL - 2 2014

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of March 18, 2014 to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the proposal to update the regulations governing new residential wood heaters. The Administrator asked that I respond on her behalf.

Our proposed updates to the new source performance standards for new residential wood heaters are intended to address significant air pollution in many parts of the nation, by substantially reducing the fine particle pollution of which wood smoke can be a contributing factor. This human health issue is a major concern of numerous states, tribes, and local jurisdictions.

Residential wood smoke can increase fine particulate matter emissions to levels that cause significant health concerns. Each year, smoke from wood heaters accounts for hundreds of thousands of tons of fine particles throughout the country, mostly during the winter months. Nationally, residential wood combustion accounts for 15 percent of noncancer respiratory effects, nearly 25 percent of all air toxics cancer risk from small sources, and 44 percent of total polycyclic organic matter emissions. For many counties, residential wood smoke either causes them to exceed the EPA's health-based national ambient air quality standards for fine particles or places them on the cusp of exceeding those standards. Partly because emissions from wood stoves occur near ground level in residential communities across the country, setting these new requirements for cleaner new stoves would result in substantial reductions in exposure and meaningful improvements in public health.

I would like to emphasize that the EPA's proposed regulation would only affect new stoves; existing stoves would not be covered by the rule. As required by Section 111 of the Clean Air Act, the EPA proposes performance standards based on the "best system of emissions reduction" (BSER), considering costs and other impacts. The Clean Air Act also requires the EPA, as we are doing here, to periodically review the standards and update them, as necessary, to reflect current technology.

The EPA's proposed determination is that BSER is already met by a significant portion of the marketplace and is fully demonstrated commercially. Performance has improved considerably since we last set performance standards for new residential wood heaters, and the proposed standards would bring all newly manufactured stoves up to the performance levels that the best systems are already achieving. We expect greater, not less, consumer choice as manufacturers compete in the marketplace to offer the best products.

Furthermore, the health benefits of these proposed regulations are expected to be much greater than the cost to manufacture and use cleaner, lower-emitting appliances. In our initial analysis, we projected annual health benefits of $1.8 to $4.2 billion, compared to estimated costs of $15.7 million. We also forecast that new heaters would see a price increase of between 2 and 6 percent. Our proposal and associated estimates were thoroughly reviewed by the Office of Management and Budget, the Small Business Administration, and other government offices prior to proposal. The comment period on the proposal recently closed, and we are currently reviewing the extensive comments we received.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may contact Kevin Bailey in the EPA's Office of Congressional and Intergovernmental Relations at bailey.kevinj@epa.gov or (202) 564-2998.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL 15-000-3344

ROY BLUNT
MISSOURI

260 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2508
202-224-5721

United States Senate

WASHINGTON, DC 20510

COMMITTEES
APPROPRIATIONS

COMMERCE, SCIENCE
AND TRANSPORTATION

RULES AND ADMINISTRATION

SELECT COMMITTEE
ON INTELLIGENCE

December 1st, 2014

Environmental Protection Agency
EPA Docket Center (EPA/DC)
Mail code 28221T
Attention Docket ID No. OAR–2013-0602
1200 Pennsylvania Avenue, NW
Washington, DC 20460

In January 2014, twenty one of my colleagues and I wrote to President Obama imploring that he consider the burden to ratepayers, especially individuals and families, before moving forward with more questionable regulations on coal fired power plants. It is therefore of grave concern that the Environmental Protection Agency (EPA) is moving forward with its Clean Power Plan (CPP), an unprecedented, sweeping action to regulate the entire U.S. electric power sector under Section 111(d) of the Clean Air Act. I write today asking that EPA withdraw this rule.

Missouri electric service providers have warned that the CPP would increase energy costs for Missourians and reduce our state's economic competitiveness. Each "building block" in EPA's proposal poses serious challenges to Missouri service providers. For example, under this proposal service providers may be required to build new natural gas capacity not otherwise needed to meet customer demand or reliability concerns. This sets up an incredibly unfair scenario where Missourians are paying for new power that neither they nor the electricity grid needs.

Indeed the complicated suite of "building blocks" in the CPP serve only as a smoke screen for new, costly mandates with questionable returns in actual clean air improvements. EPA has spun this rule as one that offers states "flexibility" to reach the emissions targets that EPA has dictated. However, in reality EPA is forcing states to regulate, making the states the point of compliance. Subsequently, the residents of each state will pay the costs of compliance. The lack of transparency and accountability on the part of EPA in this scheme is truly astounding.

Indeed, it will be state officials that must answer to residents who see their utility bills increase. Missourians have historically relied on coal to power over 80% of our electricity, and as a result enjoyed below average electricity rates in 2012. Yet a recent study by Energy Ventures Analysis on the effects of the CPP (combined with several recent EPA power plant regulations) predicts that this is sure to change. The study found that Missourians' annual utility bills (electric and gas) would cost around $1,000 more in 2020 as compared to 2012. This would be almost a 50% increase.

These new costs mean less disposable income for Missouri consumers. It will hurt low-income consumers the most. The most vulnerable families and individuals among us are hit the hardest by bad energy policies resulting in high utility bills, because these are the consumers who already spend a significant amount of their disposable income on energy.

A recent analysis from the American Coalition for Clean Coal Electricity (ACCCE) using U.S. Bureau of the Census Data illustrates how this especially hits home for Missouri. In 2013, over 50% of families in Missouri earned on average $50,000 or less. The families earning less than $50,000 devoted an average of 20% of their disposable income to energy costs. As you can see, any increase in energy prices, however incremental, will mean that difficult budgeting choices must be made. Choosing whether to spend disposable income on groceries, educational expenses, or even doctors' visits are the types of decisions that no family should ever be forced to make.

Further, rural poverty is an especially difficult challenge we face in Missouri, as Missouri contains 13 rural persistent poverty counties. Each county happens to be served by a rural electric cooperative. In fact, rural electric cooperatives serve 93% of the Nation's persistent poverty counties, and are almost 80% dependent on coal-fired power. Therefore, ratepayers living in rural poverty are among the most vulnerable to these EPA regulations.

When my colleagues and I wrote on this topic in January, we hoped that the goal of protecting families and individuals from future costs of questionable energy regulations would be something we could all agree on and work towards. However, given the proposal the EPA has set forth, I regret to say that this is an area where our views sharply diverge. Nevertheless, I ask that you withdraw the Clean Power Plan and conduct a full analysis of the effects of new power plant regulations on all ratepayers, especially lower-income communities, before moving forward.

Sincere regards,

Roy Blunt

Senator Roy Blunt

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 29 2015

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of December 1, 2014, to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the Clean Power Plan for existing power plants that was signed by the Administrator on June 2, 2014, and published in the *Federal Register* on June 18, 2014. The Administrator asked that I respond on her behalf.

Climate change induced by human activities is one of the greatest challenges of our time. It already threatens human health and welfare and our economic well-being, and if left unchecked, it will have devastating impacts on the United States and the planet. Power plants are the largest source of carbon dioxide emissions in the United States, accounting for roughly one-third of all domestic greenhouse gas emissions. The proposed Clean Power Plan builds on what states, cities and businesses around the country are already doing to reduce carbon pollution and establishes a flexible process for states to develop plans to reduce carbon dioxide that meet their needs. We have placed your comments in the docket for this rulemaking.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Kevin Bailey in the EPA's Office of Congressional and Intergovernmental Relations at bailey.kevinj@epa.gov or at (202) 564-2998.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL 11-000-3890

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 0 8 2011

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

The Environmental Protection Agency's (EPA) Superfund program will be finalizing the Washington County Lead District – Furnace Creek site, located in Caledonia, Missouri, to the National Priorities List (NPL) by rulemaking. EPA received a Governor/State concurrence letter supporting the listing of the site on the NPL. Listing on the NPL provides access to federal cleanup funding for the nation's highest priority contaminated sites.

Because the site is located within your state, I am providing information to help in answering questions you may receive from your constituency. The information includes a brief description of the site, and a general description of the NPL listing process.

If you have any questions, please contact me or your staff may contact Carolyn Levine, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-1859. We expect the rule to be published in the Federal Register in the next several days.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

Enclosures

United States Environmental Protection Agency

OSWER/OSRTI
Washington, DC 20460

NATIONAL PRIORITIES LIST (NPL)

Final Site

March 2011

WASHINGTON COUNTY LEAD DISTRICT – FURNACE CREEK | Caledonia, Missouri
Washington County

Site Location:

The Washington County Lead District – Furnace Creek (Furnace Creek) site is located in a heavily mined region of eastern Missouri known as the Washington County Lead District. The site includes residential areas within and around the towns of Caledonia, Irondale, Belgrade, and Hopewell. The Furnace Creek site includes contamination located within a 175 square mile area in the southeastern portion of Washington County, Missouri.

Site History:

The Washington County Lead District is part of Missouri's Old Lead Belt, where lead mining has occurred for hundreds of years. The Old Lead Belt provided approximately 80 percent of the lead produced in the United States. Additionally, this area is part of the barite mineralization district of Missouri. After the Civil War, numerous small barite mines operated in Washington County, which was the world's leading producer of barite before declining in the 1980s. Many of the later large mining operations reworked lands that were previously hand mined for galena (mineral source of lead) or barite. Washington County has hosted more than 1,000 lead and barite mining, milling, or smelting sites.

Site Contamination/Contaminants:

The Furnace Creek site includes source piles, tailing ponds and residences with elevated levels of lead throughout the area. The piles primarily consist of overburden and tailings from mineral mining and processing. Heavy metal soil contamination is present at elevated concentrations at more than 400 residential properties. To date, there are more than 16 private residential wells with lead contamination.

Potential Impacts on Surrounding Community/Environment:

The Furnace Creek site includes elevated levels of heavy metals found during sampling conducted in 2009. Additionally, residential yards, ground water, and surface water have various elevated levels of heavy metals.

Response Activities (to date):

EPA response activities include providing bottled water to residences and excavation of more than 150 residential yards in the Furnace Creek area.

Need for NPL Listing:

The State of Missouri referred the site to EPA. Other federal and state cleanup programs were evaluated, but were not viable at this time.

[The description of the site (release) is based on information available at the time the site was evaluated with the HRS. The description may change as additional information is gathered on the sources and extent of contamination.]

For more information about the hazardous substances identified in this narrative summary, including general information regarding the effects of exposure to these substances on human health, please see the Agency for Toxic Substances and Disease Registry (ATSDR) ToxFAQs. ATSDR ToxFAQs can be found on the Internet at http://www.atsdr.cdc.gov/toxfaq.html or by telephone at 1-888-42-ATSDR or 1-888-422-8737.

United States Environmental Protection Agency

OSWER/OSRTI
Site Assessment and Remedy Decisions Branch
Washington, DC 20460

NATIONAL PRIORITIES LIST (NPL)

WHAT IS THE NPL?

The National Priorities List (NPL) is a list of national priorities among the known or threatened releases of hazardous substances throughout the United States. The list serves as an information and management tool for the Superfund cleanup process as required under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances.

There are three ways a site is eligible for the NPL:

1. **Scores at least 28.50:**
   A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (HRS), which EPA published as Appendix A of the National Contingency Plan. The HRS is a mathematical formula that serves as a screening device to evaluate a site's relative threat to human health or the environment. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for inclusion on the NPL. This is the most common way a site becomes eligible for the NPL.

2. **State Pick:**
   Each state and territory may designate one top-priority site regardless of score.

3. **ATSDR Health Advisory:**
   Certain other sites may be listed regardless of their HRS score, if all of the following conditions are met:

   a. The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Department of Health and Human Services has issued a health advisory that recommends removing people from the site;
   b. EPA determines that the release poses a significant threat to public health; and
   c. EPA anticipates it will be more cost-effective to use its remedial authority than to use its emergency removal authority to respond to the site.

Sites are first proposed to the NPL in the *Federal Register*. EPA then accepts public comments for 60 days about listing the sites, responds to the comments, and places those sites on the NPL that continue to meet the requirements for listing. To submit comments, visit www.regulations.gov.

Placing a site on the NPL does not assign liability to any party or to the owner of any specific property; nor does it mean that any remedial or removal action will necessarily be taken.

For more information, please visit www.epa.gov/superfund/sites/npl/.

AL 11-001-2447

United States Senate

WASHINGTON, DC 20510

July 25, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1001A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express concerns regarding the Environmental Protection Agency's (EPA) proposal to phase out food tolerances of sulfuryl fluoride (SF), a product critical to the food processing industry's efforts to prevent pest contamination of foods made from wheat, rice, corn, oats, oilseeds, cocoa, nuts, and dried fruit, as well as other seeds and commodities.

SF is an important fumigant for controlling pests in agricultural facilities. For years, methyl bromide (MB) was the preferred fumigant for pest eradication; however, MB was phased out in January 2005 under the Montreal Protocol. The food and agriculture industry was forced to research and develop alternatives to MB, and today the industry has found SF to be a viable alternative to MB for its pest management approaches.

However, in January, EPA announced a proposal to implement a phased-out revocation of the tolerance for SF residue tolerances on foods. This proposal appears to mandate drastic industry action to achieve, at best, ambiguous results. EPA admitted in its public statement announcing the plan that the "use of [SF] is responsible for a tiny fraction of aggregate fluoride exposure" and that its elimination from fumigation procedures will not solve, or even significantly decrease, EPA's concerns with human aggregate fluoride exposure.

EPA has even recognized that should SF be eliminated as an option in fumigation procedures, operations will be left with little to no viable alternatives to meet sanitation standards in their facilities. Unsanitary food facilities pose a significant risk to human health, increasing the potential for contamination by insects, rodents, and other pests. Without use of SF or MB for pest eradication, industry could face drastically increased costs, which will ultimately be passed to the consumer.

EPA should adopt a policy that takes into account all risks and benefits, including policy considerations like the need to retain at least one viable fumigant to maintain sanitation standards for domestic and export markets. Despite recognizing that no viable alternative to SF exists, EPA has proposed to remove SF from the market immediately for some uses, and within three years for others. To address the lack of an alternative, EPA simply promises that it "will work with users of sulfuryl fluoride to identify potential alternatives." This gives no certainty to an industry that must maintain food quality and safety standards to protect consumers. Rather than hastily

prohibit use of SF prior to development of a commercially viable alternative, EPA should consider other administrative action preserving tolerances of SF under existing authority.

EPA could follow at least two different administrative paths that would result in more appropriate treatment of SF. First, EPA is within its authority to grant *de minimis* status to SF, similar to the *de minimis* status afforded to other sources of insignificant fluoride exposure. As noted above, EPA has acknowledged that SF is responsible for only a tiny fraction of aggregate fluoride exposure. Therefore, EPA should be able to determine that exposure to fluoride as a result of the food uses of SF is negligible and presents no significant public health or safety concerns.

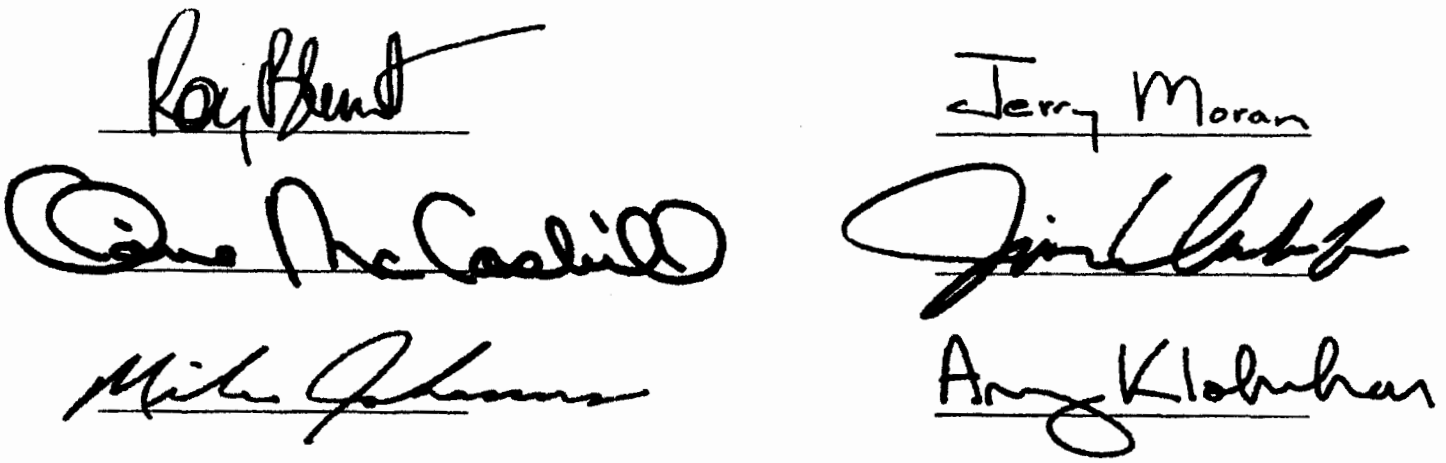
Second, EPA is under no obligation to include non-pesticidal sources of fluoride in its aggregate exposure assessment under Section 408 of the Federal Food, Drug, and Cosmetic Act. The law states that these sources only be "considered, among other relevant factors" when EPA makes its safety determination. We are concerned about the amount of weight EPA placed on non-pesticidal sources in its aggregate exposure assessment and how inclusion of this data affected the aggregate exposure assessment for SF.

To ensure public health is protected in these proceedings, EPA must use the best available science, but it must also consider the harm these actions might have on economic growth and jobs. We are concerned about how EPA is balancing these matters as it considers SF tolerance levels and would like to know the following:

1.) Has EPA considered granting SF eligibility *de minimis* status?
2.) What non-pesticidal sources of fluoride did EPA consider in its aggregate exposure assessment for SF and what weight was given these non-pesticidal sources?
3.) How did the amount of weight EPA gave to non-pesticidal sources of fluoride influence EPA's proposal to eliminate SF?

Thank you for your attention to this important matter. We look forward to your prompt response.

Sincerely,



Bob Carey, Jr.

to Benjamin Gleason

Pat Toomey

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 12 2011

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your July 25, 2011 letter to Environmental Protection Agency Administrator Lisa Jackson concerning EPA's proposal to grant objections to the establishment of sulfuryl fluoride and fluoride tolerances under section 408 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a. I am responding on the Administrator's behalf because my office is responsible for regulating pesticides in the United States.

To reduce the possibility of children receiving too much fluoride, early this year, the U.S. Department of Health and Human Services proposed that the recommended level of fluoride in drinking water be set at the lowest end of the current optimal range to prevent tooth decay, and EPA initiated review of the maximum amount of fluoride allowed in drinking water. The updated recommendation of 0.7 milligrams fluoride per liter of water replaces the current recommended range of 0.7 to 1.2 milligrams and is based on recent EPA and HHS scientific assessments to balance the benefits of preventing tooth decay while limiting any unwanted health effects.

These scientific assessments will also guide EPA in making a determination of whether to lower the maximum amount of fluoride allowed in drinking water, which is set to prevent adverse health effects. The new EPA assessments of fluoride were undertaken in response to findings of the National Academies of Science (NAS). At EPA's request, NAS reviewed new data on fluoride in 2006 and issued a report recommending that EPA update its health and exposure assessments to take into account bone and dental effects and to consider all sources of fluoride. In addition to EPA's new assessments and the NAS report, HHS also considered current levels of tooth decay and dental fluorosis and fluid consumption across the United States.

On January 19, 2011, the agency published for comment a *Federal Register* notice, proposing a staggered implementation for withdrawal of the affected tolerances. EPA is proposing to withdraw tolerances under an implementation or phaseout schedule that allows three years for affected pesticide users to transition to alternatives if there currently is significant sulfuryl fluoride on the crop or use site.

As you may know, the comment period on this proposed tolerance action recently closed. Your letter raises concerns that are explicitly included in the comments received, and we are currently in the process of carefully reviewing and considering these and other comments. We will fully analyze and respond to the issues and arguments discussed in your letter in the context of taking

final action on our proposal. Given that these issues are currently under consideration at the agency, we are unable to fully respond at this time. However, you also ask three specific questions which we are able to answer as follows:

1. Has EPA considered granting SF [sulfuryl fluoride] eligibility *de minimis* status?

   EPA has not previously concluded that the requirements in FFDCA section 408 to aggregate exposures are subject to a *de minimis* exception. EPA will take a close look at this question in resolving the administrative objections to the sulfuryl fluoride and fluoride tolerances.

2. What non-pesticidal sources of fluoride did EPA consider in its aggregate exposure assessment for SF and what weight was given these non-pesticidal sources?

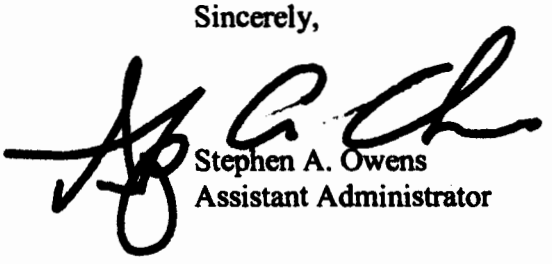
   EPA considered the following non-pesticidal sources of fluoride: drinking water, dental products, soil, air, and pharmaceuticals. EPA did not give "weights" to the various sources of exposure; rather, we calculated total fluoride exposure from all sources.

3. How did the amount of weight EPA gave to non-pesticidal sources of fluoride influence EPA's proposal to eliminate SF?

   As explained in EPA's proposal, the largest sources of fluoride exposure are not from pesticides, but the total of all sources of exposure poses a risk concern. Although EPA did not focus on the safety of pesticidal fluoride exposures in isolation, exposure from pesticides alone does not appear to pose such a concern.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,



Stephen A. Owens
Assistant Administrator

AL 11-001-6125

United States Senate

WASHINGTON, DC 20510

September 19, 2011

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591

Dear Administrators Jackson and Babbitt:

We write to encourage the Environmental Protection Agency (EPA) and the Federal Aviation Administration (FAA) to work closely together with representatives from the aviation sector in any efforts to transition from leaded avgas used by General Aviation (GA) aircraft to an unleaded alternative. While we understand and share your desire to remove lead from avgas, especially in light of potential litigation, we also need to ensure the EPA does not ban lead used in avgas until we have a safe, viable, readily available, and cost-efficient alternative.

Currently, leaded avgas is used to fuel approximately 150,000 piston-engine aircraft in the United States. As you know, lead boosts the octane of the fuel used in these aircraft, protecting the engines against early detonation and preventing engine failure in flight. Despite ongoing research and testing, there currently is no safe or affordable alternative to leaded avgas to meet the needs of the GA aircraft fleet and FAA standards that ensure their flight safety.

Without avgas, most existing GA aircraft engines will have to be de-rated from their currently-certified power levels in order to maintain the FAA-required detonation margins at an incredible cost to aircraft owners, operators, and the consumers who rely on their service. Arbitrarily imposed changes would also result in a significant loss of power that will reduce the performance and cargo capacity of many existing GA aircraft, severely limiting their usefulness. These changes also pose a significant flight safety concern as a reduction in power results in reduced aircraft performance leading to longer takeoff distances and lower aircraft climb rates.

As you may be aware, GA contributes over $150 billion annually to the national economy and supports approximately 1.2 million American jobs. However, GA is more than just revenue and jobs. GA serves medical providers, law enforcement, small businesses, and agricultural producers. Agricultural pilots treat more than 75 million acres of cropland each year. In addition, GA aircraft provide service to all of the 19,600 public and private

landing facilities in the United States. In our most rural communities GA aircraft are the only means of reliable, year-round transportation available. Therefore, the use of a new avgas that does not provide the same detonation protection as today's fuel would turn most single, twin-engine, and high-performance airplanes into non-airworthy aircraft drastically affecting the national economy.

The GA industry, including aircraft and engine manufacturers, fuel producers and developers, as well as groups representing pilots and aircraft owners, play a key role in the process for finding suitable unleaded replacements for avgas. Each brings a mix of technical knowledge, historical perspective and market understanding to the discussion that must be considered to ensure General Aviation remains viable well into the future.

For these reasons, we urge both the EPA and FAA to work closely together with representatives of the GA sector and the House and Senate GA Caucuses in finding an alternative to leaded avgas. Furthermore, we urge you to carefully consider these concerns before you move forward with any rulemaking that would stop the use of leaded avgas before the FAA has an opportunity to take appropriate measures needed to approve a new, safe, and affordable unleaded avgas that takes into account the safety of those aboard the affected aircraft.

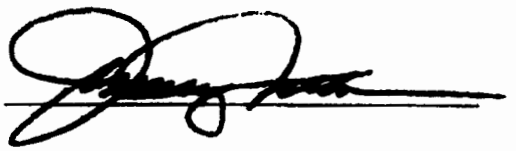
Sincerely,

John Thune

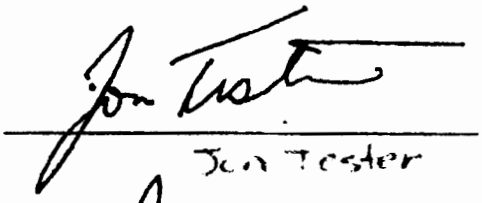
Lisa Murkowski

Michael Enzi

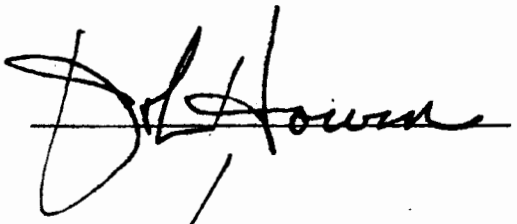
Saxby Chambliss

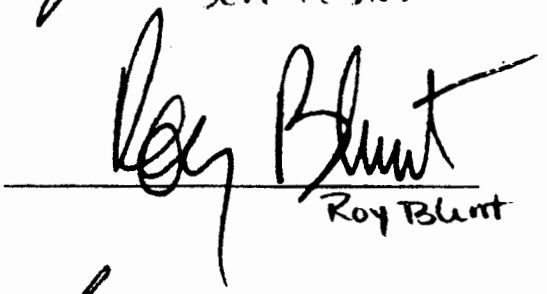


Pat Roberts

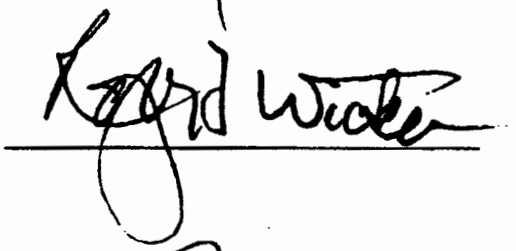


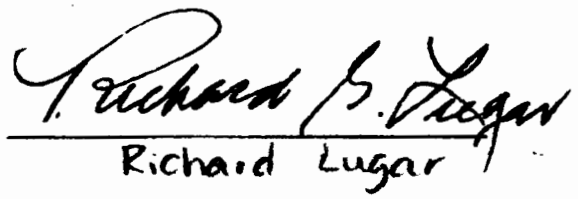
Jon Tester



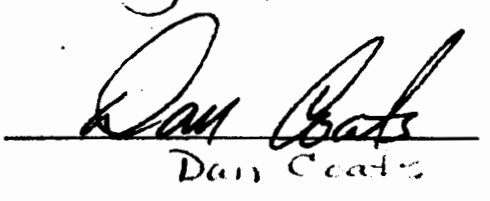


Roy Blunt

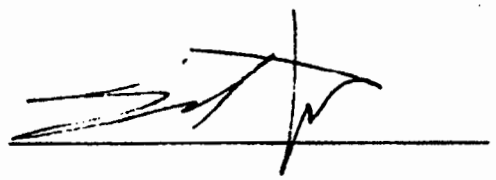


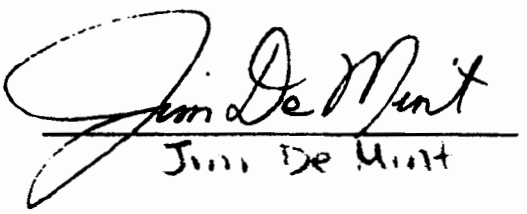


Richard Lugar

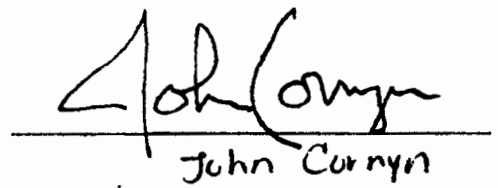


Dan Coats

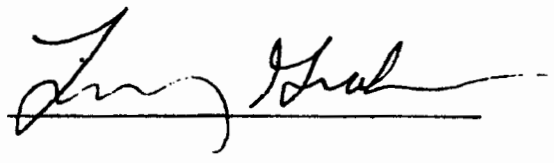


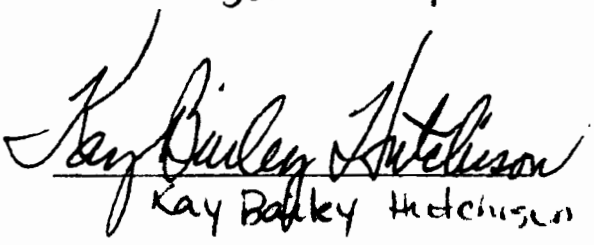


Jim De Mint

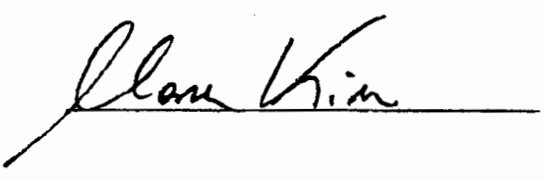


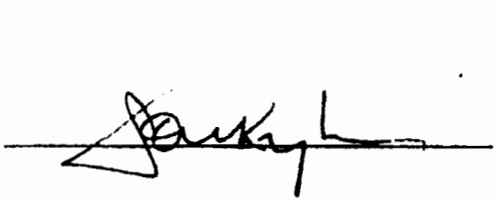
John Cornyn

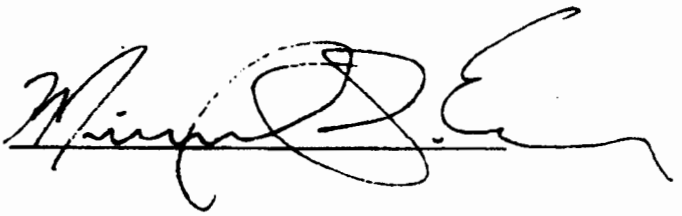


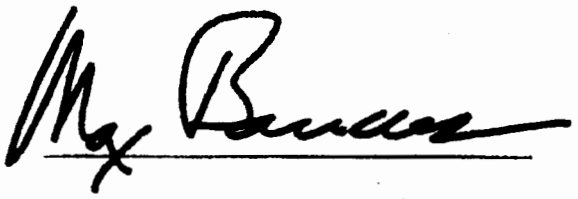


Kay Bailey Hutchison

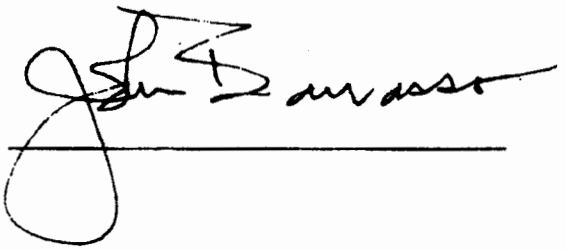








Jerry Moran



FAX
511 Dirksen Senate Office Bldg. Washington, D.C. 20510
Phone: 202-224-2321 • Fax 202.228.5429

From the Office of
JOHN THUNE
United States Senator
SOUTH DAKOTA

DATE: 2011-09-21

NUMBER OF PAGES INCLUDING COVER:

TO: Mr. David McIntosh

FAX NUMBER: (202)501-1519

FROM: Adrian Arnakis

RE: Letter to Administrator Jackson

NOTES:

Original in Mail

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC - 1 2011

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of September 19, 2011, co-signed by 26 of your colleagues, to Administrator Jackson. Your letter requests that the Environmental Protection Agency and the Federal Aviation Administration (FAA) work closely together with representatives from the aviation sector in any efforts to transition general aviation aircraft from leaded aviation gasoline (avgas) to an unleaded alternative. Specifically you noted concern regarding a ban on lead used in avgas before a safe, viable, readily available, and cost-efficient alternative is available.

I would like to clarify the EPA's role and actions on this issue: the EPA does not have regulatory authority over the composition or chemical or physical properties of aviation fuels. The EPA has the authority to establish emissions standards for aircraft under Clean Air Act section 231, and is responsible for judging whether emissions from aircraft, including aircraft lead emissions, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. FAA, however, has the authority to regulate the content of aviation fuel. The EPA is coordinating on an ongoing basis with FAA, and will continue to do so, on our activities related to the use of lead in aviation fuel.

The EPA published an Advance Notice of Proposed Rulemaking (ANPR) in April 2010 regarding leaded avgas. The purpose of the ANPR was to describe available data and request comment related to lead emissions, ambient concentrations of lead, and potential exposure to lead from the use of leaded avgas. The ANPR was issued in part in response to a rulemaking petition submitted by Friends of the Earth in 2006 concerning leaded avgas. Since then, the EPA has continued to gather and analyze relevant information. The ANPR and our current analytical work are focused on the issue of endangerment, which is the first step in a long regulatory process. We are mindful of the complexity of the issues involved, and the EPA is moving forward in a thorough and deliberate manner. Our analytical work and data collection is likely to continue over the next one to two years.

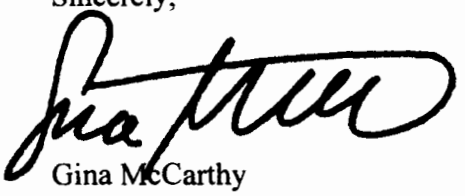
I want to assure you that the EPA recognizes the importance of piston-engine general aviation throughout the United States. Furthermore, safety considerations are always a high priority for us. We will be working in concert with FAA, industry and aviation groups to keep piston-engine powered airplanes flying safely, and in an environmentally responsible manner.

Any EPA regulatory action to address lead emissions from aircraft would involve a thorough process of identifying options and would consider safety, economic impacts and other impacts. This would be done in concert with the FAA, states, industry groups and user groups.

We appreciate the information you submitted about the importance of general aviation to the national economy, rural communities, and American businesses and jobs. We look forward to continuing our dialogue with FAA and the general aviation sector, as well as the House and Senate General Aviation Caucuses.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,



Gina McCarthy
Assistant Administrator

AL14-000-5007

THE WHITE HOUSE OFFICE
REFERRAL

February 05, 2014

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION COMMENTS:

ACTION REQUESTED: DIRECT REPLY W/COPY

REFERRAL COMMENTS:

DESCRIPTION OF INCOMING:

ID:	1131034
MEDIA:	EMAIL
DOCUMENT DATE:	January 30, 2014
TO:	PRESIDENT OBAMA
FROM:	THE HONORABLE ROY BLUNT UNITED STATES SENATE WASHINGTON, DC 20510
SUBJECT:	URGES THE PRESIDENT TO CONSIDER THE BURDEN TO RATEPAYERS BEFORE MOVING FORWAD WITH PLANS TO INCREASE REGULATION OF THE EXISTING POWER GENERATION FLEET

COMMENTS: _____

_____

_____

PROMPT ACTION IS ESSENTIAL – IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 8 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 63, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500

THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: February 04, 2014 **CASE ID: 1131034**

NAME OF CORRESPONDENT: THE HONORABLE ROY BLUNT

SUBJECT: URGES THE PRESIDENT TO CONSIDER THE BURDEN TO RATEPAYERS BEFORE MOVING FORWAD WITH PLANS TO INCREASE REGULATION OF THE EXISTING POWER GENERATION FLEET

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)		
LEGISLATIVE AFFAIRS	MIGUEL RODRIGUEZ	ORG	02/05/2014
ACTION COMMENTS:			
ENVIRONMENTAL PROTECTION AGENCY		R	02/05/2014
ACTION COMMENTS:			
ACTION COMMENTS:			
ACTION COMMENTS:			
ACTION COMMENTS:			

COMMENTS: 21 ADDL SIGNEES

MEDIA TYPE: EMAIL **USER CODE:**

ACTION CODES	DISPOSITION		
A = APPROPRIATE ACTION B = RESEARCH AND REPORT BACK D = DRAFT RESPONSE I = INFO COPY/NO ACT NECESSARY R = DIRECT REPLY W/ COPY ORG = ORIGINATING OFFICE	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
	INITIALS OF SIGNER (W.H. STAFF) NRN = NO RESPONSE NEEDED OTBE = OVERTAKEN BY EVENTS	A = ANSWERED OR ACKNOWLEDGED C = CLOSED X = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 63, EEOB.

1131034

United States Senate

WASHINGTON, DC 20510

January 30, 2014

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC

Dear President Obama,

As a consequence of your recent Executive Order relating to your June 2013 Climate Action Plan (CAP), the Environmental Protection Agency (EPA) has conducted "listening sessions" in anticipation of proposing a rule designed to address emissions of greenhouse gases from existing power plants. Leaving aside whether EPA even has the legal authority to do this, as well as the dubious value of conducting "listening sessions" far from the homes of many of those most likely to be affected, we write to urge that you consider the burden to ratepayers before moving forward with plans to increase regulation of the existing power generation fleet.

In 2009, the American Clean Energy and Security Act, commonly known as "Waxman-Markey," passed the Democratic-controlled House, but was not even considered in the Senate. The central provision of that legislation would have placed a cap on greenhouse gas emissions, which would then be sharply reduced over time. The legislation contemplated a final target of roughly 80% below 2005 levels by 2050. This bill was rejected by Congress for a variety of reasons, including primarily the tremendous costs it would impose on consumers and the economy for little or no benefit. For example, one study found that the bill would raise electricity rates by 90% (after adjusting for inflation).[1]

Your June 2013 CAP announcement differs little from Waxman-Markey. Your CAP reflects the goal you announced in 2009 to reach an 80% emissions reduction by 2050 below 1990 levels.[2] Even if met, this goal, which was developed with no input from Congress, will have no measurable effect on global temperatures.

---

[1] William W. Beach, Ben Lieberman, Karen Campbell, and David W. Kreutzer, *Son of Waxman-Markey: More Politics Makes for a More Costly Bill*, Heritage Foundation (June 16, 2009), http://www.heritage.org/research/reports/2009/05/son-of-waxman-markey-more-politics-makes-for-a-more-costly-bill

[2] Matthew Wald, *Energy Secretary Optimistic on Obama's Plan to Reduce Emissions*, N.Y. Times (June 27, 2013), http://www.nytimes.com/2013/06/28/us/politics/energy-secretary-optimistic-on-obamas-plan-to-reduce-emissions.html?_r=0.

The goal will nonetheless cost consumers in the form of increased prices for energy and anything made, grown, or transported using energy. These new costs will result in less disposable income in families' pockets. That means less money to spend on groceries, doctors' visits, and education. In short, low cost energy is critical to human health and welfare.

For some ratepayers, like the millions of rural electric cooperative consumers in the country, coal makes up around 80% of their electricity. According to the 2009 Bureau of Labor Statistics Consumer Expenditure Survey, nearly 40 million American households earning less than $30,000 per year spend almost 20% or more of their income on energy.[3] The most vulnerable families are those hit the hardest by bad energy policies and high utility bills.

For consumers, your Administration's actions will mean goods are costlier to produce and therefore costlier to purchase. Manufacturers and employers will face higher costs of capital and labor. What's worse, as noted by a 2003 Congressional Budget Office (CBO) report, these are the types of losses that cannot be offset with subsidies or other forms of assistance. As a result these costs will be borne solely and directly by American workers and consumers.[4]

Manufacturers and companies will face higher production costs if they are denied access to affordable energy, and instead be forced to use costlier, less reliable forms of energy. These businesses will either pass these costs along to consumers, or their profits will suffer and threaten their viability.

Either outcome is unacceptable given that America is on the verge of a manufacturing renaissance. A large part of our manufacturing success has been due to the inexpensive and reliable electricity that this country currently benefits from. Low price natural gas is a part of this, as is coal, which at 40% of our electricity mix is still the main source of base load power for our nation.

Recent studies have predicted that the U.S. is steadily becoming one of the lowest-cost countries for manufacturing in the developed world. The study estimates that by 2015, average manufacturing costs in advanced economies such as Germany, Japan, France, Italy, and the U.K. will be up to 18% higher than in the United States.[5]

This should come as no surprise. The fact is that going "all-in" on renewables has significantly weakened the stability of many European Union (EU) countries' electricity generation, caused prices to skyrocket, and has left ratepayers footing the exorbitant bill. The EU subsidies for wind

---

[3] Department of Labor, U.S. Bureau of Labor Statistics, Report 1029, *Consumer Expenditures in 2009* (May, 2011), available at http://www.bls.gov/cex/csxann09.pdf.

[4] Congressional Budget Office, *Shifting the Cost Burden of a Carbon Cap-and-Trade Program* (July, 2003), available at http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/44xx/doc4401/07-09-captrade.pdf.

[5] Harold L. Sirkin, Michael Zinser, and Justin Rose, *The U.S. as One of the Developed World's Lowest-Cost Manufacturers: Behind the American Export Surge*, bcg.perspectives, (Aug. 20, 2013), https://www.bcgperspectives.com/content/articles/lean_manufacturing_sourcing_procurement_behind_american_export_surge/

and solar that began almost a decade ago in the name of ending reliance on fossil fuels have saddled customers with an increase of almost 20% in the cost of electricity for homes and businesses over the past four years.[6]

As an illustration, Germans will be paying more for electricity than any other major participant in the EU, according to the Household Energy Price Index for Europe. In September, Germans paid 40 cents per kilowatt hour (kWh) of electricity. Even the ratepayers in Connecticut, who suffer the highest electricity rates in the U.S. (17 cents per kWh), pay less than half that.[7]

Whatever our disagreements might be on how best to approach a changing climate, we think we can all agree that whatever we do should not burden ratepayers and consumers, especially middle and low-income families, with new costs. We therefore implore you to avoid any actions which damage ratepayers throughout this country, especially when those actions result in no measurable benefits and no measurable effects on the very thing that the actions are designed to address.

Sincere regards,

Roy Blunt
U.S. Senator

Lamar Alexander
U.S. Senator

John Barrasso
U.S. Senator

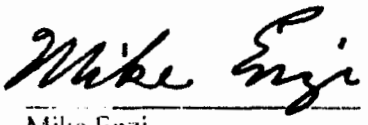
John Boozman
U.S. Senator

Dan Coats
U.S. Senator

John Cornyn
U.S. Senator

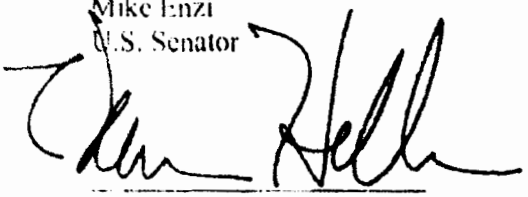
[6] Geraldine Amiel, *Energy Bosses Call for End to Subsidies for Wind, Solar Power*, Wall St. J. (Oct. 11, 2013), http://online.wsj.com/news/articles/SB10001424052702303382004579129182510803694.

[7] William Pentland, *Berlin's Electric Rates Become Highest In Europe*, Forbes (Oct. 27, 2013), http://www.forbes.com/sites/williampentland/2013/10/27/berlins-ballooning-electricity-rates-become-highest-in-europe/.

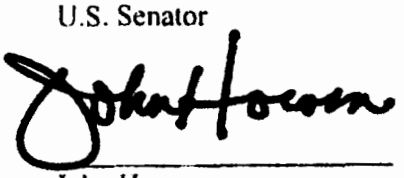


Mike Enzi
U.S. Senator

Deb Fischer
U.S. Senator



Dean Heller
U.S. Senator

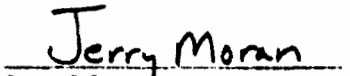


John Hoeven
U.S. Senator

Jim Inhofe
U.S. Senator

Mike Johanns
U.S. Senator

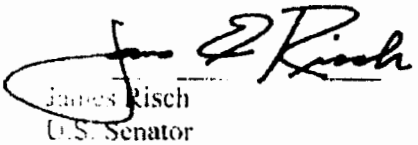
Joe Manchin
U.S. Senator



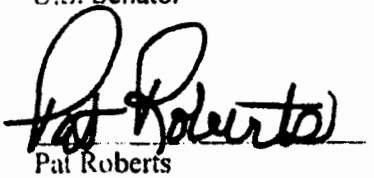
Jerry Moran
U.S. Senator

Lisa Murkowski
U.S. Senator

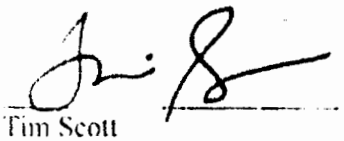
Rob Portman
U.S. Senator



James Risch
U.S. Senator

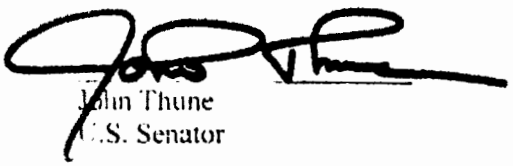


Pat Roberts
U.S. Senator

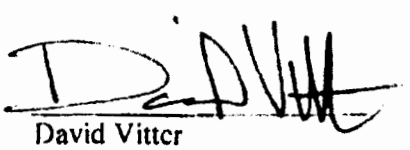


Tim Scott
U.S. Senator

Jeff Sessions
U.S. Senator



John Thune
U.S. Senator



David Vitter
U.S. Senator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY - 5 2014

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of January 30, 2014, to President Obama regarding the Climate Action Plan and the upcoming carbon pollution guidelines for existing power plants and standards for modified and reconstructed power plants that the U.S. Environmental Protection Agency will propose in June 2014.

In June 2013, President Obama called on agencies across the federal government, including the EPA, to take action to cut carbon pollution to protect our country from the impacts of climate change, and to lead the world in this effort. The President also directed the EPA to work with states, as they will play a central role in establishing and implementing standards for existing power plants, and, at the same time, with leaders in the power sector, labor leaders, non-governmental organizations, other experts, tribal officials, other stakeholders, and members of the public, on issues informing the design of carbon pollution standards for power plants.

Your letter expressed concern about the burden on ratepayers, including consumers and manufacturers, from carbon pollution regulations on existing power plants. The EPA shares your concern over potential electricity price impacts of regulations on the American people. As we consider guidelines for existing power plants, the EPA is engaged in vigorous and unprecedented outreach with the public, key stakeholders, and the states. We are doing this because we want—and need—all available information about what is important to each state and stakeholder. We know that the guidelines will require flexibility and sensitivity to state and regional differences.

To this end, we continue to welcome feedback and ideas from you as well as your constituents about how the EPA should develop and implement carbon pollution guidelines for existing power plants under the Clean Air Act. When we issue the draft guidelines in June 2014, a more formal public comment period will follow, as with all rules, and more opportunities for public hearings and stakeholder outreach and engagement. We look forward to hearing what you think about the draft guidelines at that time, too.

Many Americans are also concerned about the impacts of climate change on the American people and on people around the world. Observed data shows that the climate in the U.S. is already changing. Severe heat waves are becoming more intense and frequent, increases in sea level put our coasts at risk, and rising temperatures and drought have led to an increase in wildfires—all of which threaten human health and welfare. Snow and rainfall patterns are shifting and more extreme climate events, such as heavy rainstorms and record high temperature, are taking place. Arctic sea ice is shrinking, and the oceans are becoming more acidic. Climate change is also expected to worsen regional ground-level

ozone pollution, resulting in harmful health impacts such as decreased lung function, aggravated asthma, increased emergency room visits, and premature death. Reducing the pollution that contributes to climate change is critically important to the protection of Americans' health and the environment upon which our economy depends.

Responding to climate change is an urgent public health, safety, national security, economic, and environmental imperative that presents great challenges and great opportunities not only here in the United States, but also around the world. The continued leadership of the EPA domestically and the success of the Clean Air Act for more than 40 years give weight to our efforts to work with international partners to address their emissions. Our global leadership has already inspired significant efforts by our partner countries towards emission reductions of their own.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Kevin Bailey in the EPA's Office of Congressional and Intergovernmental Relations at bailey.kevinj@epa.gov or (202) 564-2998.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL 14-000-9990

United States Senate

WASHINGTON, DC 20510

May 22, 2014

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
U.S. EPA Headquarters – William J. Clinton Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator McCarthy,

We are writing to request that the Environmental Protection Agency (EPA) provide at least a 120 day comment period on the upcoming draft proposal for the regulation of greenhouse gases from existing power plants. The EPA should provide this extended comment period as soon as the proposed rule is noticed in the federal register, given the significant impact this rule could have on our nation's electricity providers and consumers, on jobs in communities that have existing coal-based power plants, and on the economy as a whole.

The upcoming proposal will be far more complex and critical for the industry to deal with than the proposal for new plants, and stakeholders will need time to analyze the rule and determine its impact on individual power plants, reliability and consumer cost, and on the electric system as a whole. This analysis will be no small undertaking, as this will be the first ever regulation of greenhouse gases from existing power plants. EPA recognized that additional time was needed and extended the original 60 day comment period for the Agency's proposal regarding new source performance standards for newly constructed power plants, so it only makes sense to provide at least the same timeline from the outset for the existing plant rule.

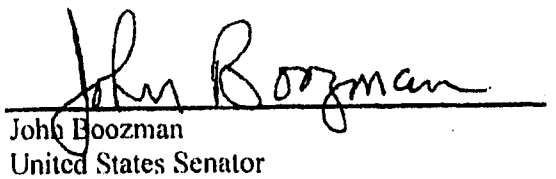
Affordable, reliable, and redundant sources of electricity are essential to the economic well-being of our states and the quality of life of our constituents. While we all agree that clean air is vitally important, EPA has an obligation to understand the impacts that regulations have on all segments of society. As one step toward fulfilling this obligation, we urge you to provide for a comment period of at least 120 days on the forthcoming performance standards for existing coal-based power plants.

Thank you for your consideration of this request.

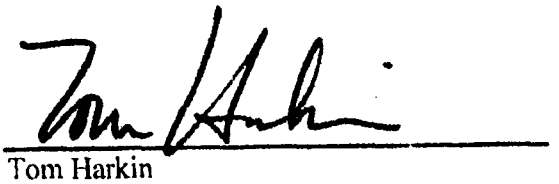
Sincerely,

Deb Fischer
United States Senator

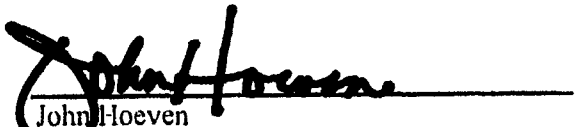
Heidi Heitkamp
United States Senator



John Boozman
United States Senator

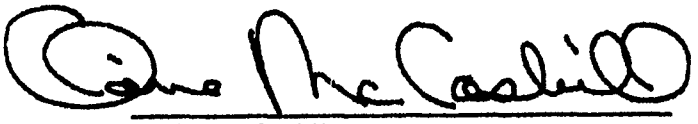


Tom Harkin
United States Senator

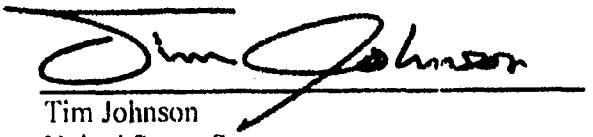


John Hoeven
United States Senator

Mark Warner
United States Senator



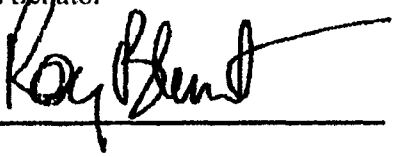
Claire McCaskill
United States Senator



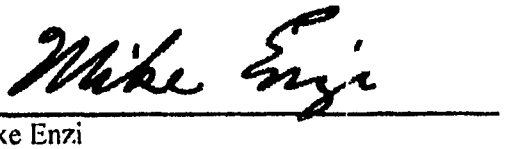
Tim Johnson
United States Senator

Lindsey Graham
United States Senator

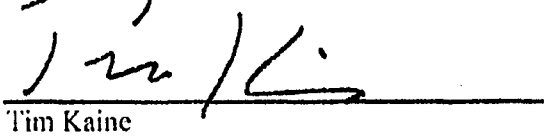
Tom Udall
United States Senator



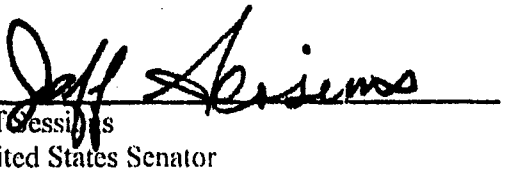
Roy Blunt
United States Senator



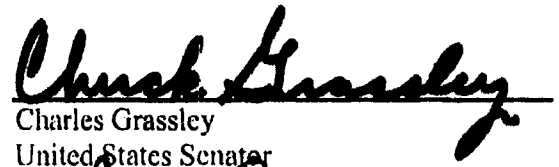
Mike Enzi
United States Senator



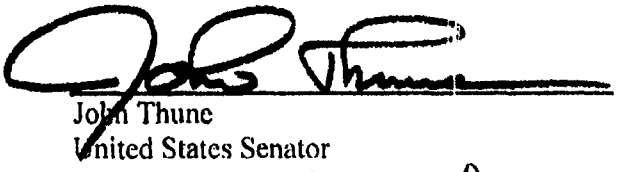
Tim Kaine
United States Senator



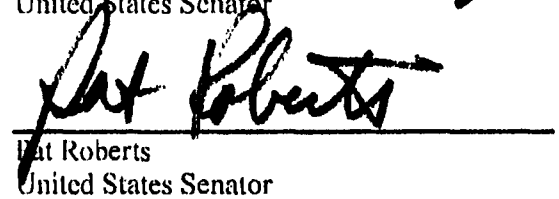
Jeff Sessions
United States Senator



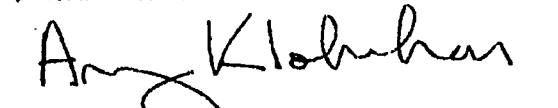
Charles Grassley
United States Senator



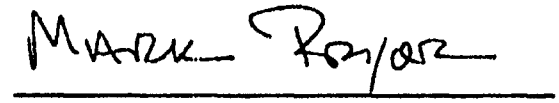
John Thune
United States Senator



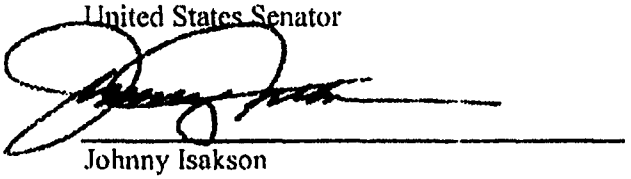
Pat Roberts
United States Senator



Amy Klobuchar
United States Senator

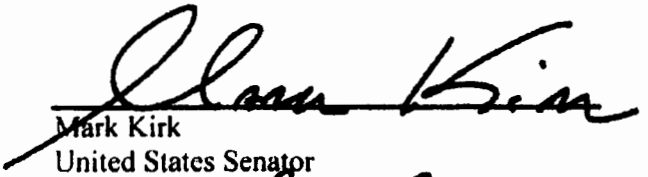


Mark Pryor
United States Senator

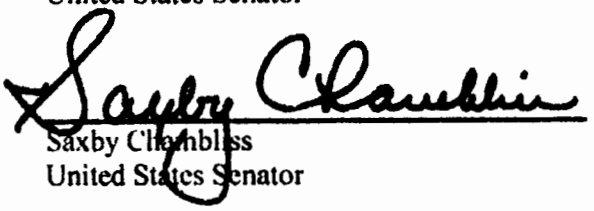


Johnny Isakson
United States Senator

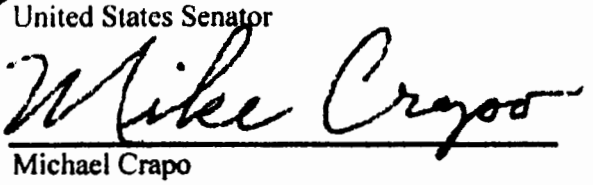
Jim Inhofe
United States Senator



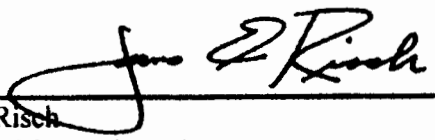
Mark Kirk
United States Senator



Saxby Chambliss
United States Senator

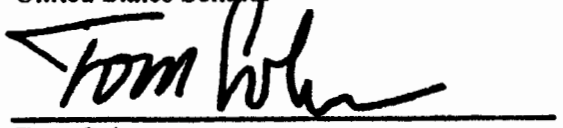


Michael Crapo
United States Senator

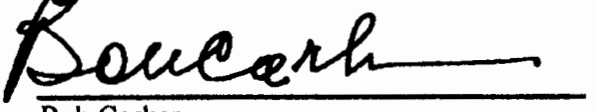


Jim Risch
United States Senator

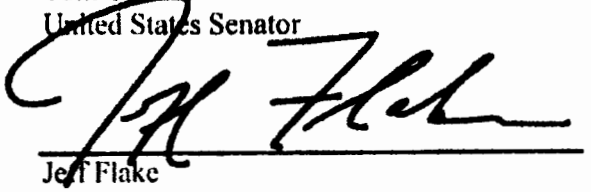
John Barrasso
United States Senator



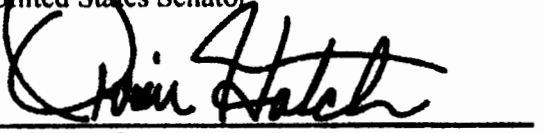
Tom Coburn
United States Senator



Bob Corker
United States Senator

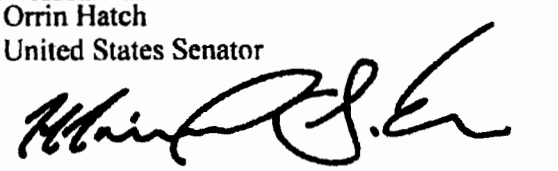


Jeff Flake
United States Senator

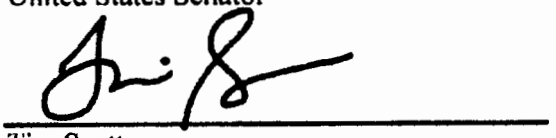


Orrin Hatch
United States Senator

Mike Johanns
United States Senator



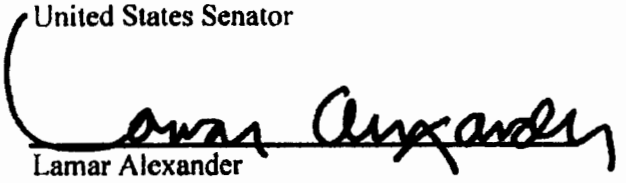
Mike Lee
United States Senator



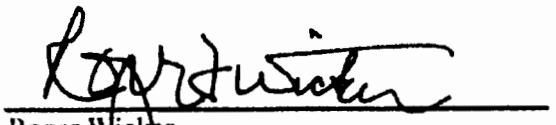
Tim Scott
United States Senator

David Vitter
United States Senator

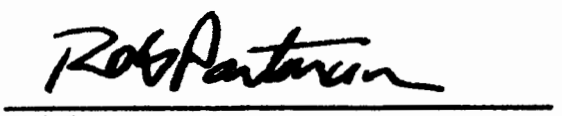
Mark Begich
United States Senator



Lamar Alexander
United States Senator



Roger Wicker
United States Senator



Rob Portman
United States Senator

John Cornyn
United States Senator

Ron Johnson
United States Senator

Robert P. Casey, Jr.
United States Senator

Joe Manchin
United States Senator

Joe Donnelly
United States Senator

Dan Coats
United States Senator

John Walsh
United States Senator

Mary Landrieu
United States Senator

Richard Burr
United States Senator

AL 14-000-9524

United States Senate

WASHINGTON, DC 20510

May 13, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20004

Dear Administrator McCarthy,

On April 10, 2014, a broad bipartisan group of Senate advisors participated in a productive call with representatives from the EPA Office of Air Quality Planning and Standards, the Office of General Counsel, and the Office of Congressional Affairs regarding the consent decree requiring EPA to propose National Emission Standards for Hazardous Air Pollutants ("NESHAPs") for clay ceramics manufacturing facilities located at major sources by August 28, 2014 ("the date of the proposed NESHAPs"). We appreciate the time and attention of these EPA officials to this important issue. We are writing to reaffirm our position that EPA should not include industries in the proposed NESHAPs that will no longer have facilities that exceed the major source threshold as of the date of the proposed NESHAPs.

Based on our call with EPA, we understand that EPA is planning to subcategorize the clay ceramics industry with regard to floor and wall tile. We applaud such an effort. It is our understanding that voluntary action to reduce emissions has resulted in all floor tile manufacturing facilities falling below the major source threshold. Additionally, while one wall tile facility is currently a major source, we understand that the owner of that facility has obtained a federally enforceable permit binding it to install pollution control technology that will reduce the facility's emissions below the major source threshold, and that this construction project is underway and scheduled to be completed prior to the date of the proposed NESHAPs. As a result of these efforts, prior to the date of the proposed NESHAPs, no ceramic floor or wall tile manufacturer in the country will meet or exceed the major source threshold.

It is good public policy for EPA to reward this type of voluntary self-regulation. As a result of what the ceramic tile industry has done, emissions at all floor and wall tile facilities are scheduled to be below the major source threshold prior to publication of the proposed NESHAPs and at least four years earlier than if industry had waited for EPA to promulgate major source NESHAPs. Alternatively, setting NESHAPs for an industry that is self-regulating and will not include major source facilities at the time that the new NESHAPs are proposed will unnecessarily disadvantage American industry and domestic economic expansion without any improvement to the environment. In particular, we are concerned about the ability of American tile manufacturers to attract business in the face of stiff competition from China and Mexico. Therefore, we request that EPA limit its proposed NESHAPs for clay ceramics facilities located at major sources only to those industries that will include major source facilities as of the date of the proposed NESHAPs. Doing so will not affect the current emissions control regulations for non-major source (i.e. area source and synthetic minor source) clay ceramics manufacturing facilities that are in place.

American tile manufacturers are fighting an uphill battle to maintain market share. Over 70 percent of tile sold in the United States today is imported. To counter this, major domestic companies have recently added capacity at existing facilities and new plants in the U.S. or have announced plans to do so. A new major source NESHAP that includes the wall and floor tile manufacturing industries would unnecessarily create a stigma of major source pollution by these industries in the eyes of customers. Further, foreign companies would use this designation to their advantage when competing with these American industries for projects for which sustainability is a factor. Therefore, while EPA must comply with the consent decree and propose NESHAPs for clay ceramics manufacturing facilities located at major sources, EPA should not go above and beyond what is required by proposing NESHAPs for industries that will not have major source facilities as of the date of the proposed NESHAPs. Tailoring NESHAPs only to industries where there are major sources is critical to advancing compliant domestic capacity, investments on US soil, and American manufacturing job growth.

Thank you for your attention to this important matter and for your consideration of this letter. We look forward to working with EPA to ensure that the pending NESHAPs adhere both to the consent decree and to this request. Please do not hesitate to contact me if you have any questions.

Sincerely,

Senator Mark Pryor

Senator Roy Blunt

Senator Tim Kaine

Senator Lamar Alexander

Senator Robert P. Casey, Jr.

Senator Richard Burr

Senator Saxby Chambliss

Cc: Janet McCabe, Acting Assistant Administrator, Office of Air and Radiation
Joseph Goffman, Associate Assistant Administrator & Senior Counsel, Office of Air and Radiation
Elizabeth Shaw, Deputy Assistant Administrator, Office of Air and Radiation
Tom Powers, Senior Policy Advisor, Office of Air and Radiation
William Niebling, Senior Advisor for Congressional and International Affairs, Office of Air and Radiation
Stephen Page, Director, Office of Air Quality Planning and Standards
Avi Garbow, General Counsel
Wren Stenger, Director, Multimedia Planning and Permitting Division, EPA Region 6

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 25 2014

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of May 13, 2014, to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding standards that the EPA is developing for the clay ceramics industry. The Administrator has asked that I respond on her behalf.

I am pleased to hear that my advisors and yours have had a productive dialogue on this important issue. As you know, the EPA is aware of the current situation you refer to in your letter regarding floor tile and wall tile industries. We understand that floor tile facilities have reduced emissions below the major source threshold and that the only major source wall tile facility will soon also become an area source. We are taking these facts into consideration as we develop the proposed rule. The EPA is operating under a court order that directs us to issue a proposed rule by August 28, 2014, at which time we will welcome public comment on the rule. I encourage you to review the rule and make any additional comments, as appropriate, at that time.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may contact Kevin Bailey in the EPA's Office of Congressional and Intergovernmental Relations at bailey.kevinj@epa.gov or (202) 564-2998.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

R7-14-001-1243C

ROY BLUNT
MISSOURI

WASHINGTON, DC 20510-2502
202-224-5721

June 19, 2014

United States Senate

WASHINGTON, DC 20510

APPROPRIATIONS

COMMERCE, SCIENCE AND TRANSPORTATION

RULES AND ADMINISTRATION

SELECT COMMITTEE ON INTELLIGENCE

Congressional Liaison
Environmental Protection Agency

Dear Liaison:

Please find enclosed a copy of a letter I sent to your office on April 17, 2014 regarding Gentry County and the concerns of its Commissioners about the amount of a fine leveled against them under the Clean Water Act. According to the Commissioners, they are very concerned that the County is being punished due to the Commissioners' being frugal with taxpayer dollars since appears that the amount of the fine will be based on the revenue that the County has saved. Also, although they have been very frugal with the taxpayers' money, they have an upcoming repair to their courthouse which may run over $700,000.

Please continue to work with the County in their efforts to negotiate the penalty. You may fax your response to my Office of Constituent Services at 573/442-8162.

Thank you for your assistance in this matter.

Sincere regards,

Roy Blunt
United States Senator

RDB/ejb
enclosure

emailed 4-15-14

ROY BLUNT
MISSOURI

United States Senate

WASHINGTON, DC 20510

April 17, 2014

Congressional Liaison
Environmental Protection Agency

Dear Liaison:

Please find enclosed information I have received from the Gentry County Commissioners regarding their request for assistance in negotiating a fine leveled against them under the Clean Water Act.

Please review the enclosed information and work with these Commissioners in negotiating this fine. The current amount that the County has been fined is beyond their capacity to pay. You may send your response to my Office of Constituent Services at 308 East High Street, Suite 202, Jefferson City, Missouri 65101 or fax to 573/634-6005.

Thank you for your assistance in this matter.

Sincere regards,

Roy Blunt
United States Senator

RDB/ejb
enclosure

April 9 2014

Senator Roy Blunt

911 Main Street

Suite 2224

Kansas City Mo 64105

Dear Senator Blunt,

This letter is being written to provide information in response to the letter sent by the environmental Protection Agency to Gentry County. (Letter included, Exhibit 1) It stated that based on alterations done in the West Fork of the Grand River, that put us out of compliance with the Clean Water Act, they found it appropriate to levy a fine on Gentry County.

The problem was originally brought to our attention on April 3 2013 when the Army Corps of Engineers sent a letter to Gentry County advising us that they felt that we had worked on the West Fork of Grand River without the proper permits. (Letter included, Exhibit 2) They said they would not accept an after the fact permit application and advised us to restore the channel to preconstruction contours.

Gentry County met with met with the Army Corps of Engineers on April 19 2013 (Minutes of the meeting included, exhibit 3) at the site, of which a representative from the Environmental Protection Agency exempt 6) was in attendance. Mr. exempt 6 was the representative present for the Corps. In this meeting the situation was discussed and various factors was analyzed to directed toward the plan for restoration.

On April 25th , exempt 6 from the Regulatory Branch faxed a letter to Gentry County that included considerations and information regarding the work to be done. (Letter included, exhibit 6)

Based on these considerations and the information sent, Gentry County responded on April 23rd 2013 with a letter (included, exhibit 4) to Mr. exempt 6 of the Corps as to our specific plan which included three steps and as to the plan we intended to use, based on the Corps guidance to rectify the situation. Also included was the equipment to be used. Equipment had been moved and preliminary rectifications started on April 12 2013

On May 21, Gentry County received a letter that on May 9 2013 (letter included, exhibit 5) that Mr. exempt 6 : and Mr. exempt 6 of the Kansas City Regulatory Office visited the site as

to determine the extent of progress made towards meeting the goals of removing the soil blocks placed in the river, restoring the river channel to preconstruction contours and blocking the flow of water through the excavated ditches. They gave us instruction and direction on how to continue the work.

Early in the restoration process, wet weather slowed the progress. But after the spring wet season was over, work was done on the project on an almost every day basis, sometimes with one machine and sometimes with as many as four machines. Throughout this time our bridge crew foreman, Exempt 6 and, or one of the commissioners was in contact with Mr. Exempt 6 Exempt 6 as to the Corps assessment of the work being done as well as timelines for completion. This was met with steady and thorough reinforcement from the Corps.

We finished in September and proceeded to do grass seeding as to their suggestions. We were lead to believe that they were very satisfied as to how we performed and completed the project however there is a lack of formal documentation from them to Gentry County that would indicate their approval of the work. It has only been stated verbally to our knowledge.

At the beginning of the original letter from the Army Corps of Engineers, we contacted our Senators offices to get direction on handling the situation, much like we are doing currently. At that time we had provided a letter stating the importance of the work done to the channel by Gentry County and its importance to being able to keep a bridge located in that location and provided it to the Senators office and the Army Corp of Engineers. (Letter included, exhibit 7)

We never throughout the process received any correspondence from the Environmental Protection Agency. Nothing that would lead to us thinking there was going to be any problems down the road with them so this is indeed a surprise to us. We had focused on doing the best possible job we could to satisfy the Federal Agencies in the restoration project.

The fine that is being assessed on Gentry County is $64000. This would put a huge financial burden on our county. Among the normal challenges of having enough revenue to meet expenditures, we are currently facing a major expense on the court house bell tower, of which our engineers have had us restrict a large area around our courthouse because of the danger of people getting hit by falling brick.

Senator, Your help would be very much appreciated.

Sincerely,

Gentry County Commissioners

Exhibit 1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 Renner Boulevard
Lenexa, Kansas 66219

MAR 0 5 2014

Honorable Rod Dollars
Gentry County Courthouse
200 West Clay
Albany, Missouri 64402

Re: Invitation to Participate in Pre-filing Negotiations

Dear Mr. Dollars:

The Clean Water Act was enacted to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. Section 404 of the CWA provides that the discharge of fill material into a water of the U.S. is unlawful except in compliance with a Section 404 permit issued by the U.S. Army Corps of Engineers.

The U.S. Environmental Protection Agency has received information from the Kansas City Corps District concerning channelization and straightening activities performed and/or authorized by you which impacted portions of the West Fork of the Grand River in the NW ¼ of Section 32, Township 64 North, Range 32 West, Gentry County, Missouri (the "Site"). Specifically, in 2012, you and/or persons acting on your behalf and using earth moving equipment authorized and/or initiated the discharge of fill material into portions of the West Fork Grand River through grading, filling and excavating operations without obtaining a Section 404 permit.

The EPA believes that an enforcement action in the form of a civil penalty is appropriate for the abovementioned violations. Under Section 309 of the CWA, the EPA is authorized to seek penalties for violations of the CWA. The enclosed Consent Agreement and Final Order outlines the terms of settlement proposed by the agency, including the assessment of a civil penalty of $64,000. The agency believes a civil penalty is appropriate for the violations that occurred at the Site. Before we initiate an action to seek penalties, however, the agency would like to meet with you to discuss the actions you have taken to comply with the CWA and also to discuss the basis for the agency's determination that penalties are appropriate.

While the agency believes it is appropriate to proceed with a formal compliance agreement and penalty action, we recognize that settlement of this matter may be best accomplished by conducting negotiations prior to formalizing any enforcement action. By this letter we are offering you the opportunity to negotiate resolution of the proposed penalty before a complaint is filed.

60-Day Pre-Filing Negotiations

The settlement of this matter through payment of a civil penalty and any injunctive relief must be memorialized in a CA/FO to be signed by you and the agency within the 60-day period. As part of these pre-filing negotiations, the agency will consider any additional information that you have that is relevant

to the penalty or violations. If you are interested in participating in pre-filing negotiations, please contact exempt 6, within 10 calendar days of your receipt of this letter. If you choose not to participate in pre-filing negotiations, do not contact the agency within the 10-day time period, or settlement is not reached within the 60-day pre-filing time period, the agency intends to proceed with the filing of an administrative complaint.

exempt 6

Ability To Pay

If you believe you do not have the financial ability to pay the agency's proposed penalty and want the agency to consider your financial condition, you will need to provide the agency with appropriate financial documentation to substantiate your claim within the first 30 days of the 60-day pre-filing negotiations period.

Supplemental Environmental Projects

You may also wish to consider mitigating a portion of the penalty by performing a Supplemental Environmental Project. A SEP is a project purchased or performed by a violator that provides significant environmental benefits and has a nexus to the environmental harm threatened or caused by the violations. A full description of the EPA's policy concerning the use of SEPs in settlement actions can be found on the agency's website at http://www.epa.gov/compliance/civil/seps/index.html.

The agency understands that you have been directed by the Corps to conduct corrective measures to address the unauthorized work at the Site. Please be aware that as a condition of settlement and as part of a CA/FO, you will be required to certify to current compliance with the CWA. If during the 60-day pre-filing time period, the agency believes that additional actions are necessary to address the CWA compliance issues, the agency will initiate negotiations for an Administrative Order for Compliance on Consent to facilitate compliance with the CWA.

We trust that you recognize the importance of protecting the quality of our Nation's waters. Thank you for your attention to this matter.

Sincerely,

Karen A. Flournoy

Karen A. Flournoy
Director
Water, Wetlands and Pesticides Division

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 Renner Boulevard
Lenexa, Kansas 66219

OFFICE OF THE
REGIONAL
ADMINISTRATOR

JUL 14 2014

The Honorable Roy Blunt
United States Senator
Office of Constituent Services
308 E. High Street
Jefferson City, Missouri 65101

Attention: Liz Behrouz

Dear Senator Blunt:

Thank you for your letter of June 19, 2014, to the U.S. Environmental Protection Agency, Region 7 on behalf of Gentry County, which is concerned with a Clean Water Act penalty. The EPA considers factors set forth in the CWA when calculating the amount of a civil penalty. This includes an assessment of the seriousness of the violation, the economic benefit resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require.

Consideration of these factors led the EPA to calculate an initial proposed civil penalty as represented in its March 5, 2014, letter to Gentry County. The EPA will consider all additional information provided by Gentry County concerning the proposed penalty and intends to continue to work with Gentry County to resolve this matter.

Again, thank you for your letter. If we can be of any further assistance, please feel free to contact me at 913-551-7006, or your staff may call LaTonya Sanders, Congressional Liaison, at 913-551-7555.

Sincerely,

Karl Brooks

AL 15-000-5217

United States Senate

WASHINGTON, DC 20510

February 9, 2015

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

We write to convey our continued concern regarding delays in establishing biodiesel volumes under the Renewable Fuel Standard (RFS).

As you know, the Environmental Protection Agency (EPA) has not yet finalized the 2014 RFS standards and announced recently that it would not do so until this year. Additionally, the 2015 standard for biodiesel is also now approximately one year late, and the 2016 standard should have been established by December 2014.

Biodiesel is the first EPA-designated advanced biofuel under the RFS to reach commercial scale production nationwide. It is exceeding the goals that Congress envisioned when it created the RFS with bipartisan support in 2005. It is clear that the biodiesel industry has met the criteria for growth, and under the law, its volumes are to be promulgated independently of the other fuel categories.

Indeed, the timetables for biodiesel are unique under the RFS. In creating the program, Congress directed the EPA to establish the Biomass-Based Diesel volume at least 14 months before the applicable year in which the requirement takes effect. This is because unlike other fuel categories under the RFS, the law did not include a pre-determined volume schedule for Biomass-Based Diesel. Instead, it directed the EPA to establish annual volumes based on industry capacity, ...stock availability, and other factors.

...tions have neither reflected industry capacity nor biodiesel's separate treatment ...ecent delay has only compounded the effects from the November 2013 RFS ...t adequately reflect biodiesel production levels. These actions ...ncertainty and hardship for the U.S. biodiesel industry and its ...educed production and some have been forced to shut ...c productivity.

...nder the statutorily prescribed Renewable ...y issue volumes for 2014 at the actual 2014 ... forward on the 2015 and 2016 biodiesel volumes ...ys do not become the norm for the industry. ...d must be increased to take into account EPA's recent

decision to allow imports from Argentinean renewable fuel producers to participate in the RFS and to prevent displacement of domestic production.

Like many industries, the biodiesel industry requires certainty in order to plan for production in the next year. As such, the Administration risks causing further disinvestment and lost jobs if these decisions are not made in a timely manner. Thank you for your consideration.

Sincerely,

Heidi Heitkamp
United States Senate

Roy Blunt
United States Senate

Patty Murray
United States Senate

Chuck Grassley
United States Senate

Mazie K. Hirono
United States Senate

Debbie Stabenow
United States Senate

Claire McCaskill
United States Senate

Jack Reed
United States Senate

Jeanne Shaheen
United States Senate

Sherrod Brown
United States Senate

Joni Ernst
United States Senate

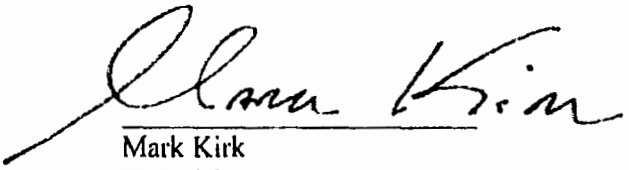
Tammy Baldwin
United States Senate

Maria Cantwell
United States Senate

Ron Wyden
United States Senate

Deb Fischer
United States Senate

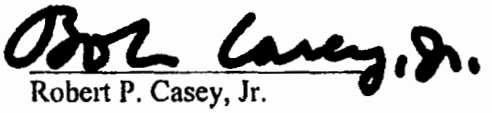
Martin Heinrich
United States Senate



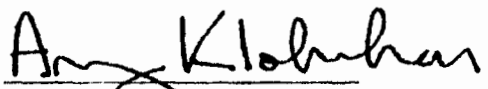
Mark Kirk
United States Senate

Sheldon Whitehouse
United States Senate

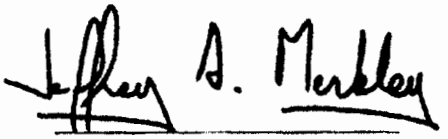
Richard Durbin
United States Senate



Robert P. Casey, Jr.
United States Senate



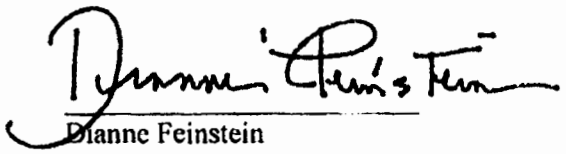
Amy Klobuchar
United States Senate



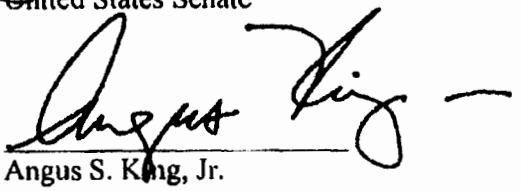
Jeffrey A. Merkley
United States Senate

Al Franken
United States Senate

Joe Donnelly
United States Senate



Dianne Feinstein
United States Senate



Angus S. King, Jr.
United States Senate

Mike Rounds
United States Senate

Brian Schatz
United States Senate

Edward J. Markey
United States Senate

Jon Tester
United States Senate

John Hoeven
United States Senate

Susan M. Collins
United States Senate

cc: The Honorable Tom Vilsack, Secretary, U.S. Department of Agriculture
The Honorable Shaun Donovan, Director, Office of Management and Budget

R7 11-000-3311C

ROY BLUNT
MISSOURI

COMMITTEES:
APPROPRIATIONS
COMMERCE, SCIENCE AND TRANSPORTATION
RULES AND ADMINISTRATION
SELECT COMMITTEE ON INTELLIGENCE

United States Senate

WASHINGTON, DC 20510

March 3rd, 2011

Mr. Karl Brooks
Regional Administrator
Environmental Protection Agency
901 North 5th Street
Kansas City, KS 66101

Dear Mr. Brooks:

I am writing to express concern over an apparent inconsistency in EPA's response to my inquiry about the New Source Review (NSR) enforcement against Ameren Missouri. In a February 9th letter from Cynthia Giles, she stated to me EPA would not "disclose information" involved in the enforcement action. However, the St. Louis Post Dispatch reported on February 16th that you "wanted to take the opportunity to explain why the EPA and the Department of Justice brought the case."

Your effort to explain the motives behind this enforcement action stands in contrast to Ms. Giles response which consisted of a general explanation of NSR implementation. Unfortunately, Ms. Giles did not speak to the definition of a "major modification," the very clarification that is the most pressing question for Ameren in this case. EPA's official response falls short of giving even general examples of work that would reach the level of a "major modification."

Indeed, since you seem more interested in publicly addressing the specific issues I raised in my January 14th letter to EPA Administrator Lisa Jackson than Ms. Giles was in her response, I will ask you the questions I posed to Ms. Jackson in the hope you will illuminate them:

1) How many site visits did EPA regulators make to the Rush Island plant to determine the basis for the lawsuit in question?
2) On which dates were these visits made?
3) What specific guidance did the EPA provide to Ameren regarding the legality of its proposed construction project?
4) Are the emissions from the Rush Island plant less clean as a result its modification?
5) What effort did the EPA make to determine the economic cost to ratepayers should the proposed construction fail to occur?

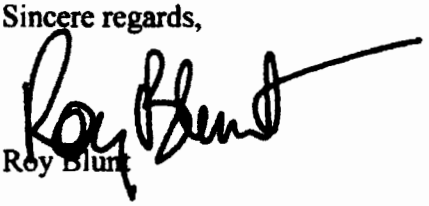
In addition, please provide me with specific related examples of what type of utility work EPA has determined rise to the level of a "major modification" under the rule.

While don't dispute your assertion that NSR has not yet been used by EPA to directly regulate carbon output, there is no doubt that there has been a consistent pattern of recent regulatory actions that aim to make the production and use of coal less economically viable. This is a stated policy goal of many who advocate for regulatory or legislative cap and trade scheme. And beyond these actions, you and I both know that EPA, like all federal agencies, possesses powerful tools that can be used to send a message to industries under its regulatory purview

while stopping short of a direct regulatory action – in this case one that has been flatly rejected by legislators.

I look forward to your response, and hope it comes as quickly as your comments to the media. Please contact Downey Palmer at (202) 224-5721 if you have any questions regarding this inquiry.

Sincere regards,



Roy Blunt

cc: Cynthia Giles

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

MAR 17 2011

OFFICE OF
THE REGIONAL ADMINISTRATOR

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your March 3, 2011, letter to EPA regarding the ongoing Clean Air Act (CAA) litigation against Ameren Missouri (Ameren) at Ameren's Rush Island plant located in Jefferson County, Missouri.

During my recent visit to St. Louis, my remarks reinforced the points that EPA Assistant Administrator for Enforcement and Compliance, Cynthia Giles, noted in her February 9, 2011, response to your previous inquiry on this matter. While I did not discuss specific information about the Ameren case, in accord with EPA's long-standing policy of not disclosing information that may interfere with pending enforcement matters, I did discuss why, as a general matter, EPA has included the coal-fired power plant sector as one the Agency's National Enforcement Initiatives. The coal-fired power plant sector is one of the largest sources of air pollution in this country. This pollution can cause asthma, other respiratory illness, and premature death. Sensitive populations like older adults and children are particularly at-risk from this pollution. EPA has seen widespread noncompliance with the CAA in the coal-fired power plant sector, and enforcement actions against companies in this sector are aimed at reducing illegal pollution that is seriously impacting our nation's air quality and human health.

As you are aware, the enforcement action against Ameren is an open, filed case in federal district court. The United States is represented in the matter by the U.S. Department of Justice. Again, thank you for your letter. If you have further questions, please contact me, or if you have specific questions regarding the ongoing federal litigation, please contact the Department of Justice, at 202-514-2007.

Sincerely,

Karl Brooks
Regional Administrator

AL 11-000-9031

United States Senate

WASHINGTON, DC 20510

May 27, 2011

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency (EPA)
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

Dear Administrator Jackson:

For nearly a decade, repeated efforts were made in both the House and Senate to pass legislation (commonly called the "Clean Water Restoration Act") to fundamentally alter the Clean Water Act (CWA) by expanding Federal government jurisdiction over water and land features whose regulation is subject to state oversight. These bills, introduced in the 111th Congress by former Senator Russ Feingold (D-WI) and former Congressman James Oberstar (D-MN), were never even scheduled for floor consideration in either Chamber. The House version of the bill never even came to a vote in committee. The reasons for this are simple. The measure was highly controversial and was strongly opposed by a broad cross-section of economic interests, including farmers, ranchers and small business people back in our home states and across the country.

In this context, we reviewed the Clean Water Act jurisdictional guidance document released by your agency on April 27th and concluded, just as your agency has, that the guidance will significantly expand federal control of private lands. In the process, it will almost certainly erect barriers to economic activity and job creation, and it will greatly expand the possibility of litigation against private landowners.

Despite revisions to some of the rhetoric in the document, the effect of the guidance will be to expand federal control into areas currently reserved to state authority. Some experts have characterized this guidance as circumventing Congress by effectively implementing the goals of the Clean Water Restoration Act, despite the fact that Congress has never authorized such an expansion of jurisdiction. Just as troubling as ignoring Congressional intent, the guidance appears to disregard the fundamental tenet embodied in two decisions of the United States Supreme Court (*SWANCC* and *Rapanos*) – that there are limits to federal jurisdiction.

It is particularly troubling that the guidance allows the U.S. Army Corps of Engineers and EPA to regulate waters now considered entirely under state jurisdiction. This unprecedented exercise of power will allow EPA to trump states' rights, and vitiate the authority of state and local governments to make local land and water use decisions. This is particularly troubling when we have seen no evidence that the states are misusing or otherwise failing to meet their responsibilities.

Enormous resources will be needed to expand the CWA federal regulatory program. Not only will there be a host of landowners and project proponents who will now be subject to the CWA's mandates and costs of obtaining permits, but an increase in the number of permits needed will lead to longer permitting delays. Increased delays in securing permits will impede a host of economic activities in our states. Commercial and residential real estate development, agriculture, electric transmission, transportation, energy development and mining will all be effected and thousands of jobs will be lost. Moreover, the agencies will need additional resources to complete jurisdictional determinations and administer the overall program. As the geographic scope of authority grows, so do the needs for program resources.

With that in mind, we request clarification on the draft guidance and request a response to the following questions no later than June 15th:

1) The draft guidance appears to present a broad interpretation of Supreme Court Justice Anthony Kennedy's "significant nexus" test for determining federal regulatory jurisdiction over wetlands by expanding this test to give EPA and the Corps jurisdiction over any type of water body that has a connection to a navigable water body. Is this an accurate description? If not, please explain why not.

2) The guidance states that "A hydrologic connection is not necessary to establish a significant nexus, because in some cases the lack of a hydrologic connection would be a sign of the water's function in relationship to the traditional navigable water or interstate water, such as retention of flood waters or pollutants that would otherwise flow downstream to the traditional navigable water or interstate water." Please explain in more detail how there can be a significant nexus with a navigable water body without there being a hydrological connection to that water body?

3) What wet areas of a State do not have a hydrological connection to larger, navigable water bodies under federal jurisdiction? Please be specific to the classification of water body that would not have a hydrological connection to navigable waters that are covered by the Clean Water Act?

4) The draft guidance allows the agencies to "aggregate" the contributions of "similarly situated" waters within an entire watershed when making a significant nexus determination, thereby making it far easier to determine that a waterbody has a significant nexus to a traditional navigable water or interstate water. Because the agencies have historically looked solely at the waterbody in question when making jurisdictional decisions, haven't they now effectively expanded their scope of review to include the overall watershed which may or may not reflect the actual functions of the singular water on the traditional navigable water? Please explain how the aggregation is expected to work and how this does not overstep your CWA authority.

5) In the summary of key points contained within the draft guidance it states "the following aquatic areas are 'generally not protected' by the CWA." Please explain the term "generally" in terms landowners can understand and describe when the features listed in this list are waters of the U.S.?

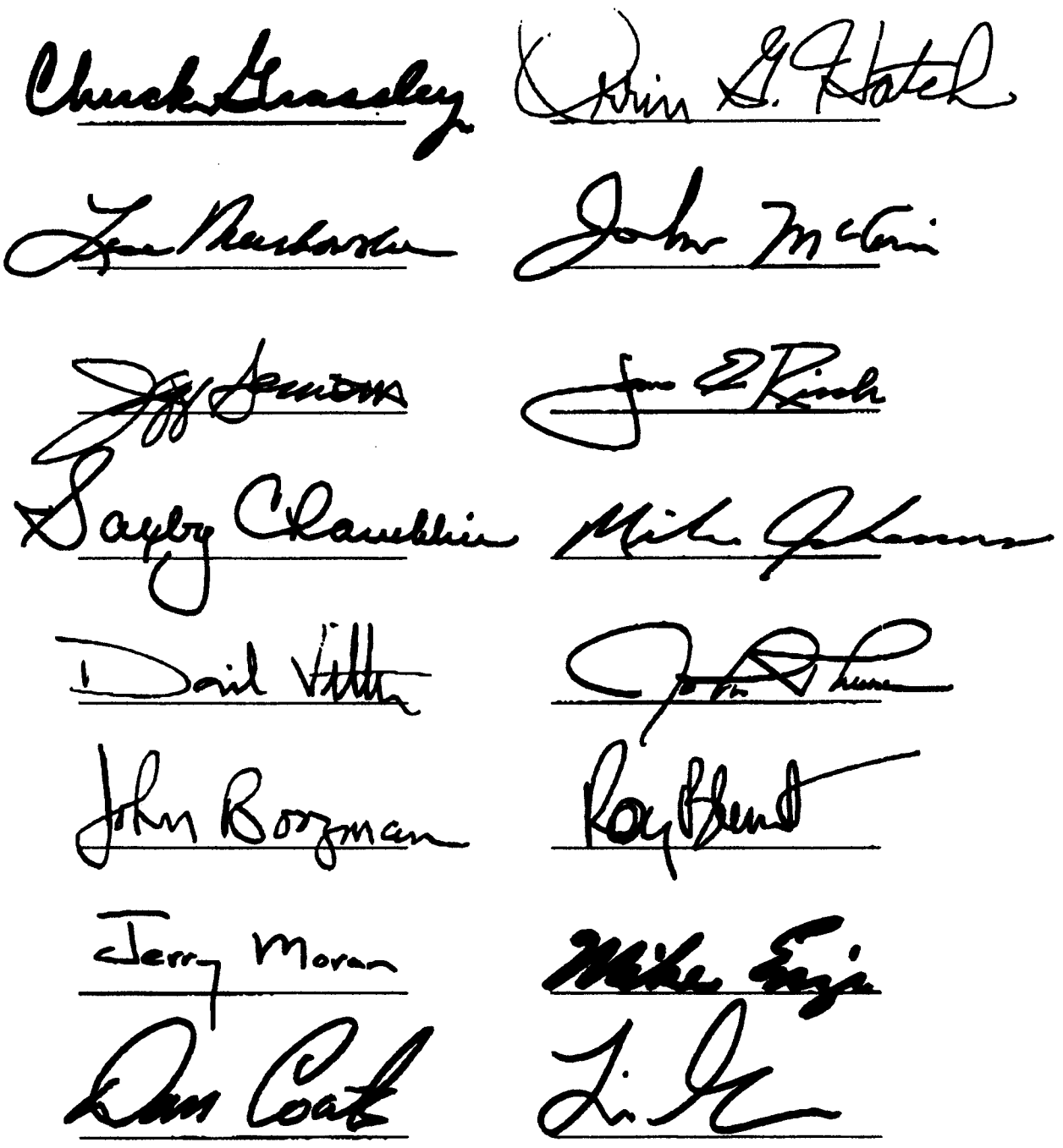
6) Your agency states in the proposed guidance that "Although guidance does not have the force of law, it is frequently used by Federal agencies to explain and clarify their understandings of existing requirements." In addition, the draft guidance states "Each jurisdictional determination, however, will be made on a case-by-case basis considering the facts and circumstances of the case and consistent with applicable statutes, regulations, and case law." Although your agency states this guidance will not have the force of law, it appears it will have an impact on agency decisions that are made on the ground, such as permitting decisions. Is that correct? Please explain in more detail how this guidance will have an impact on decision making on the ground? Likewise, please elaborate and describe a scenario under which an applicant would not have to rely on the guidance, yet be free of legal consequences.

7) Applying for a Clean Water Act permit can cost thousands of dollars for an applicant. First, if a landowner disagrees with a jurisdictional determination under this new guidance, can a landowner challenge that determination? Second, if a permit is denied to a farmer, rancher, small business owner or other entity, in whole or in part as a result of this guidance, will the applicant be able to challenge the agency's decision? If so, please describe the process for an appeal. Can the mere assertion of jurisdiction be challenged or would the applicant be required to go through the entire permitting process before a challenge to the scope of jurisdiction to be raised?

8) The draft guidance states, "However, it is not the agencies' intention that previously issued jurisdictional determinations be re-opened as a result of this guidance." Despite agency intention, could previous jurisdictional determinations be challenged in court as a result of this guidance? Will agency officials in the field be prevented from retroactively modifying previous jurisdictional determinations under this draft guidance? Please provide the section of the guidance, or other agency document, that clarifies this point.

Congress and the American people have made their voices heard on this issue in the last election. We urge you to reject this economically devastating course of action.

Sincerely,



FAX

TO:	The Honorable Lisa Jackson	FROM:	Senator John Barrasso
FAX:	202.501.1450	FAX:	202.224.1724
PHONE:	202.564.4700	PHONE:	202.224.6441
SUBJECT:	Clean Water Restoration Act	DATE:	May 27, 2011

John Barrasso (R-WY)

Mike Crapo (R-ID)

Chuck Grassley (R-IA)

Orrin G. Hatch (R-UT)

Lisa Murkowski (R-AK)

John McCain (R-AZ)

Jeff Sessions (R-AL)

James E. Risch (R-ID)

Saxby Chambliss (R-GA)

Mike Johanns (R-NE)

David Vitter (R-LA)

John Thune (R-SD)

John Boozman (R-AR)

Roy Blunt (R-MO)

Jerry Moran (R-KS)

Mike Enzi (R-WY)

Dan Coats (R-IN)

Lindsey Graham (R-SC)

Roger F. Wicker (R-MS)

Michael S. Lee (R-UT)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 11 2011

OFFICE OF
WATER

The Honorable Roy Blunt
United States Senate
Washington, DC 20510

Dear Senator Blunt:

Thank you for your letter of May 27, 2011, to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson expressing concern regarding the draft Clean Water Act jurisdictional guidance document released on April 27, 2011, for public comment by EPA and the U.S. Army Corps of Engineers. I appreciate the opportunity to better understand your concerns about the potential effect of the guidance on the nation's economic growth, job creation, and private landowners. As the senior policy manager of EPA's national water program, the Administrator has asked me to respond to your letter.

On April 27, 2011, the EPA and the U.S. Army Corps of Engineers announced the release of draft guidance for determining whether a waterway, water body, or wetland is protected by the Clean Water Act. This draft guidance would replace previous guidance to reaffirm and clarify protection for the nation's waters. The public comment period for the draft guidance was recently extended to July 31, 2011, to allow all stakeholders to provide input and feedback before it is issued. The draft guidance is currently not in use by the agencies.

The draft guidance would reaffirm protections for small streams that feed into larger streams, rivers, bays and coastal waters, affecting the integrity of those waters consistent with the statute and the relevant decisions of the Supreme Court. It similarly would reaffirm protection for wetlands that filter pollution and help protect communities from flooding. This draft guidance does not change any of the existing regulatory exemptions from jurisdiction under the Clean Water Act. All of the Act's exemptions from permitting requirements for normal agriculture, forestry and ranching practices would also continue to apply. Most importantly, the proposed guidance would not assert Clean Water Act protection for any waters not previously covered by the Act. It would merely seek to clarify that some waters previously protected under the Act continue to be protected under the law.

Your letter requested clarification on the draft guidance with regards to eight specific questions for which we have provided answers in an enclosure. I hope my letter and enclosed detailed responses effectively address the questions in your letter.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Denis Borum in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4836.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

Enclosure

AL 11-001-9943

United States Senate

WASHINGTON, DC 20510

November 28, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We write to express our concerns regarding recent regulations of sewage sludge incinerators at publicly owned treatment works' (POTWs). These new regulations, promulgated in March of 2011, impose unnecessary air emissions requirements for incinerators burning domestic sewage sludge at POTWs under §129 of the Clean Air Act (CAA).

For 46 years Congress has regulated the disposal of sewage sludge pursuant to §405 of the Clean Water Act (CWA). By applying §129 standards for sewage sludge incineration emissions, EPA is not only ignoring its CWA statutory authority, but it is also exceeding specific authority in the CAA. EPA does have CAA authority to propose further standards than those in the CWA, however this authority lies in §112 rather than §129. There is clear statutory instruction in §112 directing hazardous air emission standards applicable to POTWs with sewage sludge incinerators to be developed pursuant to this section's guidelines.

In these uncertain economic times, it is incumbent upon EPA to make sure it is on the firmest possible legal grounds when promulgating new regulations with potentially burdensome and expensive implications. Burdensome regulations such as these have the potential to significantly increase consumer rates in our states and elsewhere. We therefore urge you to reconsider this action and continue to regulate POTWs' sewage sludge incinerators in accordance with §405 of the CWA and pursuant to §112 of the CAA.

Thank you for your consideration of this matter. Please do not hesitate to contact my office should you have questions or like to discuss this further.

Sincerely,

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 12 2012

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510-0203

Dear Senator Blunt:

Thank you for your letter dated November 28, 2011, co-signed by four of your colleagues, addressed to Administrator Lisa Jackson, regarding the U.S. Environmental Protection Agency's Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Sewage Sludge Incineration Units (SSI). The Administrator asked that I respond on her behalf.

Specifically, your letter questions the EPA's authority in regulating SSI units under Clean Air Act (CAA) section 129, instead of CAA section 112, and in addition to Clean Water Act (CWA) regulations. The EPA promulgated the final SSI rules on February 21, 2011, pursuant to CAA section 129. The EPA explained in the preamble to the final rule its reasons for regulating SSI under section 129 rather than section 112, as well as the relationship to the EPA's regulations issued under CWA section 405 (See 76 FR 15373-15376, 15382-15384). Based on our analysis of the statutes and of relevant case law, we concluded that SSI units must be regulated pursuant to section 129 of the CAA. We believe that the emissions standards we set are feasible for the regulated industry to meet in a cost-effective manner and will also achieve important public health benefits.

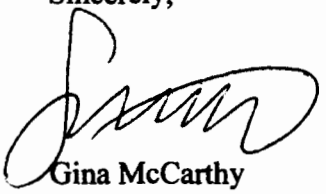
Section 129 of the CAA, entitled, "Solid Waste Combustion," requires the EPA to develop and adopt standards for solid waste incineration units. Section 129 of the CAA also provides that "solid waste" shall have the meaning established by the EPA pursuant to its authority under the Resource Conservation and Recovery Act (RCRA). The EPA defined incinerated sewage sludge as a non-hazardous solid waste in the February 21, 2011, promulgated rule entitled "Identification of Non-Hazardous Secondary Materials That Are Solid Waste."

Section 129(g) of the CAA defines "solid waste incineration unit" to include any unit combusting any solid waste, and the Court in NRDC v. EPA rejected the EPA's position that it could choose to regulate certain units, combusting solid waste, under CAA section 112 instead of under CAA section 129. Since SSI units do combust solid waste, as defined under RCRA, the EPA does not have the discretion under CAA section 129 to create an exemption for SSI units from the statutory definition of solid waste. The court noted that CAA section 129(g) itself specifies certain units that combust solid waste are exempt from the definition and noted that where Congress created such enumerated exemptions, the EPA lacks discretion to create additional ones.

The SSI rules will benefit public health and the environment by achieving reductions of the CAA section 129 pollutants from SSI units beyond those required by regulations issued pursuant to the CWA. The SSI rules were undertaken to comply with the CAA and the court decision in NRDC v. EPA. The EPA further notes that section 405 of the CWA expressly provides that nothing in that section is intended to waive more stringent requirements of any other law. Therefore, Congress clearly did not intend for regulation of SSI units under the CWA to preclude any other regulations, including regulation under CAA section 129.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Josh Lewis in the EPA's Office Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,



Gina McCarthy
Assistant Administrator

AL 12-001-3650

United States Senate

WASHINGTON, DC 20510

August 6, 2012

The Honorable Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460-0001

Dear Administrator Jackson:

As you are aware, the U.S. Environmental Protection Agency (EPA) recently published two Notices of Data Availability (NODAs) related to the EPA's proposed rule governing cooling water intake structures under Section 316(b) of the Clean Water Act. We agree these NODAs raise critically important issues regarding cost-effective approaches to regulating affected facilities while protecting fishery resources; however, we believe the proposed rule has the potential to impose enormous costs on consumers without providing human health benefits or significant improvements to fish populations.

As a result, we believe the EPA needs to make a number of substantial improvements to the proposed rule before issuing it in final form. In addition, we are concerned by the "willingness-to-pay" public opinion survey, which we believe is misleading and will artificially inflate the rule's purported benefits. This rule will affect more than one thousand coal, nuclear and natural gas power plants and manufacturing facilities. Therefore, we urge you to ensure that the final rule provides ample compliance flexibility to accommodate the diversity of these facilities. Specifically, we request the EPA to address the following critical issues:

Flexibility. The proposed rule correctly provides state governments with the lead authority to make site-specific evaluations to address entrainment. It is vitally important the EPA's final rule retain this compliance flexibility, allowing technology choices to be made on a site-specific basis reflecting costs and benefits. We encourage the EPA to adopt these features in the impingement parts of the rule as well.

Aligned Compliance Deadlines. The final rule should extend the compliance deadline for impingement to the longer proposed deadline for entrainment, thereby providing adequate time to allow companies to make integrated, cost-effective compliance decisions.

Impingement Requirements. The proposed rule includes a stringent national numeric impingement standard that would be impossible for facilities to meet, even those with state-of-the-art controls. In fact, the technology preferred by the EPA – advanced traveling screens and fish return systems – is unable to meet the proposed standard on a reliable basis. We believe the final rule should instead provide multiple pre-approved technologies that would be recognized, once installed and properly operated, as sufficient to address impingement concerns. In cases where such technologies are not feasible or cost-beneficial, the rule should provide an alternative compliance option and relief where it can be shown there are *de minimis* impingement or entrainment impacts on fishery resources.

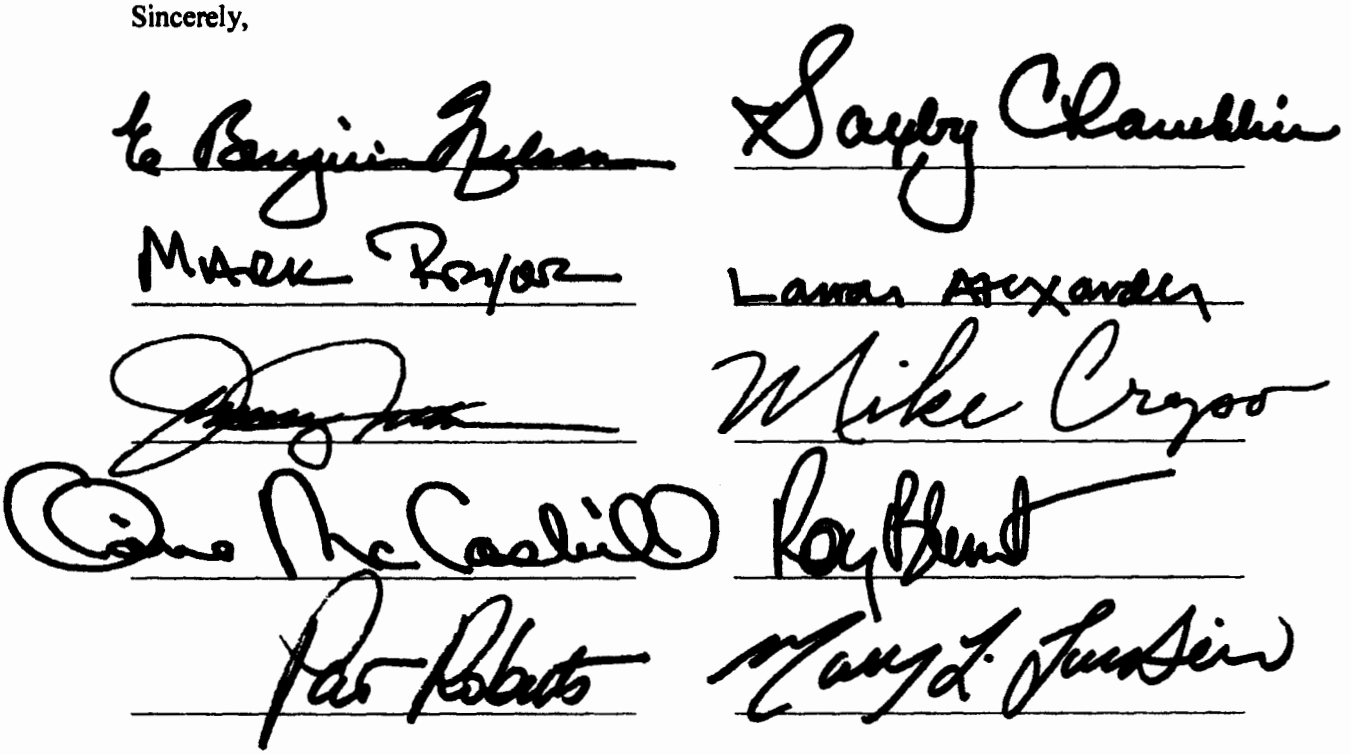
Definition of Closed-Cycle Cooling. Many facilities today have closed-cycle cooling systems. The rule should ensure that the definition of what qualifies as closed-cycle systems at existing facilities is not more stringent than the one the EPA has already adopted for new facilities. Further, the definition should include any closed-cycle system recirculating water during normal operating conditions; and the definition must not exclude impoundments simply because they are considered waters of the United States.

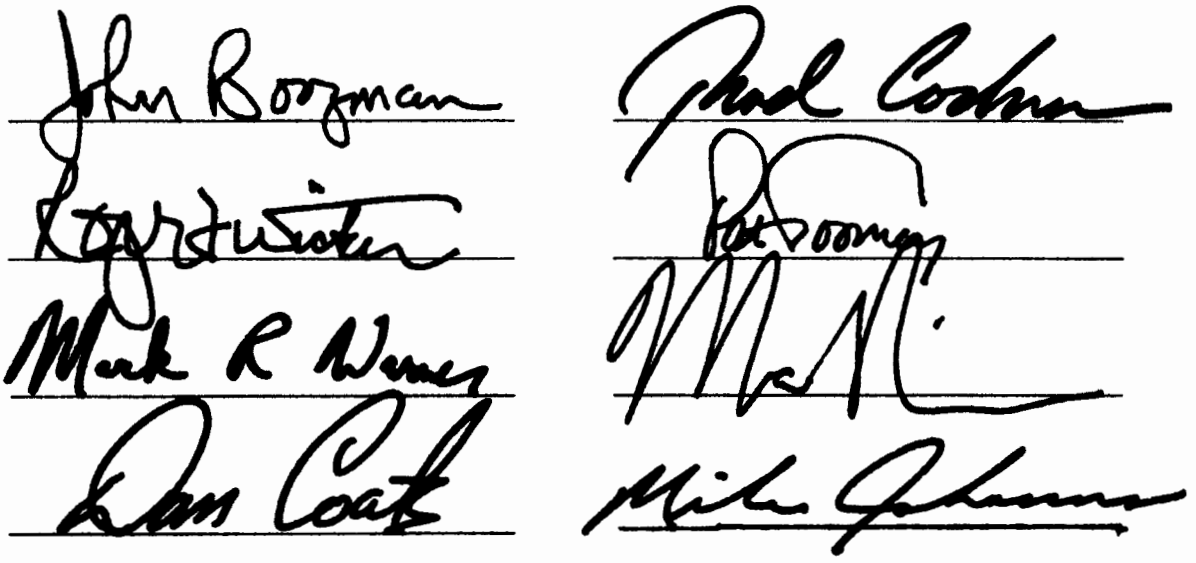
Public Opinion Survey. We feel strongly that the EPA should not rely upon the "willingness-to-pay" public opinion survey discussed in the second NODA. The public opinion survey method is highly controversial and does not provide a scientific basis for reliable results; and we believe the survey results published thus far by the EPA lack peer review and, consequently, are insufficiently analyzed. This approach to economic analysis is far too speculative to serve as a basis for national regulatory decision-making, presenting very worrisome national, legal, policy, and governance implications which go well beyond this rulemaking.

For these reasons, we believe the EPA should issue the final rule this year without further consideration or inclusion of the public opinion survey results in order to provide regulatory and business certainty to those companies facing significant capital decisions related to compliance with this and other EPA rules. Rather than using a misleading survey to inflate the rule's benefits, the EPA should adopt the above improvements, which would help to reduce the current substantial disparity between the proposed rule's costs and benefits. Such actions by the EPA would also conform to the President's Executive Order 13563, issued in January 2011, directing agencies to adopt rules minimizing regulatory burden and producing maximum net benefits.

Thank you for your consideration of our concerns. We look forward to your response.

Sincerely,





cc: Jacob J. Lew, Chief of Staff, Office of the President
Jeffrey Zients, Acting Director, Office of Management and Budget
Cass R. Sunstein, Administrator, Office of Information and Regulatory Affairs

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 31 2012

OFFICE OF WATER

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of August 6, 2012, to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson regarding the proposed rule for cooling water intake structures that the EPA published in April 2011. During the public comment period for the proposed rule, we received many comments on how to make national standards work better for the diverse community of interests, including more than 1200 industrial facilities, state permitting authorities, and commercial and recreational fishermen. Your letter reflects some of the concerns we heard during the public comment period. The EPA is carefully considering the comments and new data we have received from the regulated community and other stakeholders as it works toward a final rule. As the senior policy manager of the EPA's national water program, I am pleased to respond to your letter on behalf of Administrator Jackson.

The proposed rule would establish national standards under section 316(b) of the Clean Water Act for certain existing power plants and manufacturing facilities. Under the Clean Water Act, section 316(b) standards must reflect the best technology available for "minimizing adverse environmental impact." The proposed rule seeks to minimize adverse environmental impact through standards that protect aquatic organisms from death and injury resulting from the withdrawal of water by cooling water intake structures. The largest power plants and manufacturing facilities in the United States (that each withdraw at least two million gallons per day) cumulatively withdraw more than 219 billion gallons of water each day, resulting in the death of billions of aquatic organisms such as fish, larvae and eggs, crustaceans, shellfish, sea turtles, marine mammals, and other aquatic life. Most impacts are to early life stages of fish and shellfish through impingement[1] and entrainment[2]. The proposed rule would establish a baseline level of protection from impingement and then allow additional safeguards for aquatic life to be developed through site-specific analysis by the states. This flexible approach would ensure that the most up-to-date technologies are considered and appropriate cost-effective protections of fish and other aquatic populations are used.

Your letter expresses concerns regarding the potential costs that our rule may have on power plants and on consumers. Let me assure you that the EPA takes these concerns very seriously. The agency is working hard to develop a final rule that achieves environmental benefits consistent with the Clean Water Act and in a way that ensures that our nation's energy supplies remain reliable and affordable.

[1] Impingement is the pinning of fish and other larger aquatic organisms against the screens or other parts of the intake structure.
[2] Entrainment is the injury or death of smaller organisms that pass through the power plant cooling system.

Your letter expressed concern about the impingement mortality standards, related alternatives and flexibility, and the timeline for compliance in the proposed rule. Since proposal, the EPA has received new data related to the performance of impingement mortality control technologies. In particular, the EPA obtained more than 80 studies that provided additional data on the costs and performance of these technologies. These data include important information related to how the EPA might approach the definition of impingement mortality and compliance alternatives.

On June 11, 2012, the EPA published a Notice of Data Availability (NODA) setting forth a number of possible approaches to increase flexibility for impingement requirements. Perhaps most significantly, the NODA described a streamlined regulatory process for facilities that simply opt to employ specific pre-approved technologies that have been consistently demonstrated to protect the greatest numbers of fish and other aquatic life. The NODA solicited comment on how to establish impingement controls on a site-specific basis in those circumstances in which the facility demonstrates that the typical controls are not feasible. The NODA also identified a possible site-specific impingement category that would reduce or even eliminate new technology requirements for facilities with very low rates of fish and aquatic life death or injury. The EPA also requested comment on how best to define closed-cycle recirculating systems to ensure effective operation of these systems at existing facilities. We were pleased that stakeholders submitted the information requested in the NODA, and the EPA is considering all of this new information as we move toward completing the final rule.

Your letter also indicated concern with an EPA survey that is described in a second NODA published June 12, 2012. As stated in the NODA, the EPA's work in this area is preliminary and, "the agency has not yet determined what role, if any, the survey will play in the benefits analysis of the final 316(b) rulemaking." This survey was conducted to provide the public with more complete information about the benefits of reducing fish mortality. The benefits to society of preventing ecological damage to the aquatic environment are difficult to assess because it is hard to place a monetary value on the ecological services and public benefits of a healthy ecosystem. At the time of proposal, the EPA made it clear that the Regulatory Impact Analysis (RIA) underestimated the actual benefits and that the agency had already commenced a stated preference survey in order to do a better job of capturing the benefits of the rule.

The stated preference method poses hypothetical policy options, allowing researchers to directly inquire about citizens' willingness to pay for environmental improvements. This method can assess ecological benefits in a more complete manner than the methodologies the EPA used for the proposed rule. Stated preference methodologies have been refined for over 30 years in the academic literature, have been extensively tested and validated through years of research, and are widely accepted by both government agencies and the U.S. courts as a reliable technique for estimating non-market values of healthy ecosystems .[3] The EPA has been using data derived from stated preference surveys, where appropriate, in RIAs, for several decades. The EPA survey described in the second NODA follows the White House Office of Management and Budget (OMB) published guidance on conducting such surveys (Circular A-4: Regulatory Analysis 2003), and was approved by OMB in June 2011.

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[3]See: *Enhancing the Content Validity of Stated Preference Valuation: The Structure and Function of Ecological Indicators*, Johnston et al., 2012 and *What Have We Learned from Over 20 Years of Farmland Amenity Valuation Research in North America?*, Bergstrom and Ready 2009.

AL 13-001-0391

United States Senate

WASHINGTON, DC 20510

September 17, 2013

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Ms. McCarthy:

We are writing as a follow up to our June 18, 2013, letter[1] regarding the Administration's Interagency Working Group (IWG) 2013 Technical Support Document for the Social Cost of Carbon (SCC).[2] While the Office of Information and Regulatory Affairs (OIRA) replied on your behalf in a July 18, 2013, letter,[3] its reply was not responsive to our inquiry. We asked specific questions regarding the Environmental Protection Agency's (EPA) development and use of SCC estimates that remain unanswered. Further, we have additional concerns with EPA's application of the updated SCC developed by the IWG.

For example, EPA's recently proposed rule for steam electric power generating units[4] illustrates a significant level of confusion associated with the discount rates chosen by the IWG to calculate the SCC. The Office of Management and Budget (OMB) Circular A-4 instructs federal agencies to apply a 7 percent discount rate as a baseline for regulatory analyses, as well as a 3 percent discount rate.[5] However, the IWG's calculation of the SCC ignores Circular A-4 by only applying discount rates of 2.5, 3, and 5 percent. Nowhere in the document did the IWG provide an estimate of the SCC using a 7 percent discount rate; yet OIRA indicates the IWG at least considered the 7 percent discount rate.[6]

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[1] Letter from Sen. Vitter, et al., to Gina McCarthy, Assistant Adm'r, Office of Air and Radiation, Envtl. Prot. Agency (June 18, 2013).

[2] Interagency Working Group on Social Cost of Carbon, *Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis under Executive Order 12866*, U.S. GOV'T (May 2013), http://www.whitehouse.gov/sites/default/files/omb/inforeg/social_cost_of_carbon_for_ria_2013_update.pdf.

[3] Letter from Howard Shelanski, Adm'r, Office of Information and Regulatory Affairs, to Sen. Vitter, et al. (July 18, 2013).

[4] Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category, 78 Fed. Reg. 34432 (June 7, 2013), *available at* http://www.gpo.gov/fdsys/pkg/FR-2013-06-07/pdf/2013-10191.pdf.

[5] OFFICE OF MGMT. & BUDGET, CIRCULAR A-4: REGULATORY ANALYSIS 34 (2003), *available at* http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf

[6] *See* OIRA Response Letter, *supra* note 2. "Using a 7 percent discount rate in this context would suggest that there is effectively no consideration of the impact of carbon emissions on future generations."

In the proposed rule, EPA presented the benefits of reduced nitrogen oxide, sulfur dioxide, and carbon dioxide in accordance with Circular A-4 by using discount rates of 3 and 7 percent.[7] However, EPA included a footnote that states the Agency estimated the SCC based on a 5 percent discount rate "to estimate values presented for the 7 percent discount rate." In effect, the annualized benefits from reduced nitrogen oxide, sulfur dioxide, and carbon dioxide emissions that EPA accredits to the rule appear to be distorted by using the IWG's SCC estimates.

While the proposed rule provides one example of EPA's questionable use of the SCC in its cost-benefit analyses, we question how the Agency will apply the estimates to carry out President Obama's Climate Action Plan.[8] In particular, the President called for the EPA to propose greenhouse gas new source performance standards (NSPS) for newly constructed coal- and natural gas- fired power plants as well as for existing power plants.[9]

Given the outstanding questions concerning EPA's specific role in the development of the SCC and its application of SCC calculations, we request that you respond to the following:

1. What EPA officials participated in the IWG that developed the 2010 and 2013 SCC values? Please explain the involvement of each EPA official participating in the IWG and the process by which recommendations offered by EPA to the IWG were approved.

2. Were the FUND, DICE, and PAGE models peer reviewed for the purpose of determining the value of the SCC for the United States? Did EPA review the models to ascertain the validity of the assumptions used or if the damage functions used have solid theoretical or empirical foundation? Did EPA consider alternative models to the FUND, DICE, and PAGE models? If so, please provide a list of all models considered.

3. What procedures were followed by EPA during the IWG process so as to comport with the Agency's own peer review and data quality guidelines? Which of EPA's guidelines were not followed?

4. In 2010, EPA's Office of Inspector General (OIG) found serious flaws in the peer review and evaluation of outside assessments used in the Agency's greenhouse gas endangerment finding. In order to satisfy the OIG's recommendation that minimum review and documentation requirements for assessing and accepting existing scientific and technical data from other organizations be established, EPA drafted an

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[7] Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category, 78 Fed. Reg. 34432, 34517 (June 7, 2013), *available at* http://www.gpo.gov/fdsys/pkg/FR-2013-06-07/pdf/2013-10191.pdf.

[8] *Id.*

[9] EXECUTIVE OFFICE OF THE PRESIDENT, *The President's Climate Action Plan* (June 2013), http://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf.

addendum to its existing guidance. In developing the SCC, please explain how the EPA complied with the December 2012 addendum to Guidance for Evaluating and Documenting the Quality of Existing Scientific and Technical Information.

5. Did EPA develop its own science/data for the underlying scientific support for determining the 2013 adjustment in the SCC? Did EPA develop its own science/data for the underlying scientific support for determining the 2010 SCC estimates?

6. Did EPA consult with any non-governmental personnel during the IWG discussions and development of the SCC estimates? If so, please provide a list of all non-governmental personnel consulted.

7. Prior to the 2010 SCC estimates, how did EPA estimate the SCC?

8. Please provide a list of rules – proposed or final – in which EPA has used the SCC developed by the IWG, including rules that applied the SCC estimates as determined by the IWG in 2010.

9. Please provide a list of rules in which the EPA intends to use the updated SCC.

10. Has EPA ever deviated from a primary estimate based on the U.S. domestic value as prescribed by OMB Circular A-4? If so, please provide a list of all EPA rules that have deviated as such. Similarly, please provide a list of all EPA regulatory actions that deviated from Circular A-4's and Circular A-94's prescription to use a 7 percent discount rate as the base-case estimate in regulatory impact analysis (RIA).

11. Has OMB provided EPA guidance on how and when the SCC estimates should be applied? Has OMB provided EPA guidance on the use of the updated SCC in RIAs? For example, how such values should be applied for estimating costs of treatment technologies or methods that increase energy use, and for disbenefits associated with those requirements?

12. In developing the SCC estimate, how did the IWG account for benefits associated with the activities that rely upon energy use that results in carbon dioxide emissions?

13. Did the EPA support the decision to update the model estimates for the 2013 SCC? If not, please explain the EPA's position regarding the adequacy of the models' updated estimates.

14. Does EPA support the decision to update estimates for the 2013 SCC by inserting them into a rule's RIA at the final rule stage, which did not allow the public to comment meaningfully upon them? If not, please explain how EPA worked to protect the integrity of administrative procedure in the IWG process.

Thank you for your prompt attention to this matter. We respectfully request your responses by September 30, 2013.

Sincerely,

David Vitter
U.S. Senator

Roy Blunt
U.S. Senator

Jeff Sessions
U.S. Senator

John Barrasso
U.S. Senator

James Inhofe
U.S. Senator

Roger Wicker
U.S. Senator

John Boozman
U.S. Senator

AL 11-001-03006

United States Senate

WASHINGTON, DC 20510

June 27, 2011

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

We are writing to you today with our concerns regarding the implementation timeline for the Oil Spill Prevention, Control and Countermeasure (SPCC) rule for farmers.

First we would like to thank you for finalizing the exemption of milk and milk product containers from the SPCC rule on April 12, 2011. We appreciate your attentiveness to the feedback you received from the agriculture community. We also appreciate your willingness to prevent the unintended consequences of the SPCC regulations, which would have placed a tremendous burden on the agricultural community.

We are writing to you today with our concerns regarding the implementation timeline for the SPCC rule for farmers. As you know, last year the EPA proposed extending the compliance date under the SPCC rule to November of 2011. We applaud EPA's current extension for farms that came into business after August of 2002. We also appreciate the efforts of EPA and USDA to inform farmers about the new guidelines -- in particular, USDA's new pilot initiative to help producers comply with the new SPCC rule. However, we remain concerned that EPA has not yet undertaken the outreach necessary to ensure that all farms have sufficient opportunity to meet their obligations under the regulation.

SPCC regulations are applicable to any facility, including farms, with an aggregate above-ground oil storage capacity of 1,320 gallons in tanks of 55 gallons or greater. To comply with this rule, farms where there is a risk of spilled oil reaching navigable waters may need to undertake costly engineering services, as well as infrastructure improvements, to assure compliance with the regulation. Despite setting stringent standards, the EPA has done little to make sure small farms can meet the requirements set forth in the SPCC rule.

We strongly believe farmers want to be in compliance with the rule, but in order to do so they will need a longer period during which EPA undertakes a vigorous outreach effort with the agricultural community. Currently, the farming community in many instances lacks access to Professional Engineers (PEs). We have heard from many farmers who cannot find PEs willing or able to work on farms. In some states, no qualified professional engineers have even registered to provide SPCC consultation. In others, fewer than five have registered. Without access to PEs, it will be impossible for farmers to become SPCC compliant.

Recently released draft guidance on waters of the United States by the EPA and the U.S. Army Corps of Engineers also appear to dramatically expand the agencies' authority with regard to which waters and wetlands are considered "adjacent" to jurisdictional "waters of the United States" under the Clean Water Act. Many farm and ranch families are worried that this guidance could now force them to comply with the SPCC rule, with very little time to do so. Additionally, the delay of compliance assistance documentation has put farmers far behind the curve in preparing for compliance. Had the information and documentation been available before the January grower meetings, the compliance process could have begun before the time intensive growing season.

Furthermore, EPA still needs to clarify exactly who is responsible for holding and maintaining the plan, as many farms are operated by people who do not own the land. EPA also needs to clarify how it plans to enforce the rule.

The last thing we want is for confusion or an overly burdensome rule to disincentivize compliance. Many farmers do not keep their tanks full during the entire year, and we have already heard from associations whose members are considering decreasing the size of their tanks so they will not be subject to SPCC compliance. This could eliminate their ability to buy fuel in bulk, thus increasing their costs and the costs of food production.

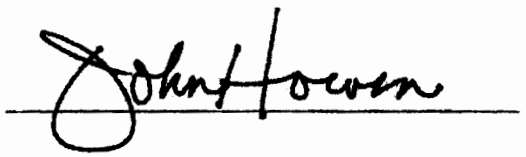
Small family farms have a natural incentive to prevent any possible oil spills on their property. No one wants more oil spills. In fact, the last people who want to spill oil are family farm owners. The impact of dealing with a costly clean-up could be devastating to the finances of a small farm.

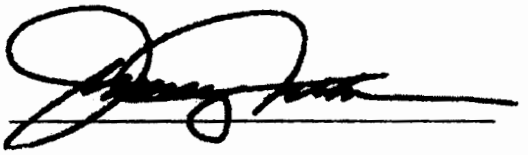
We respectfully request that you re-consider the implementation deadline, continue to dialogue with the agricultural community to answer their questions, and ensure that the rule is not overly burdensome or confusing. We believe this will help avoid the rule's unintended consequences. We appreciate your attention to this important matter.

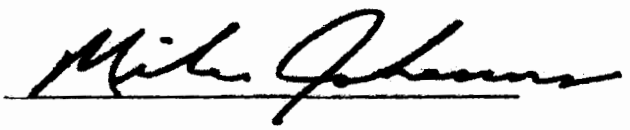
Sincerely,

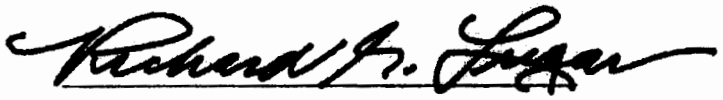
James M. Inhofe
United States Senator

Kent Conrad
United States Senator

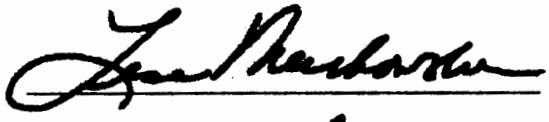


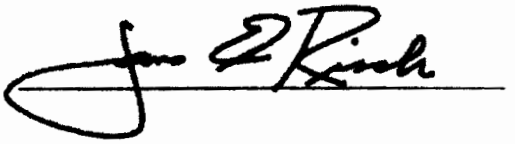


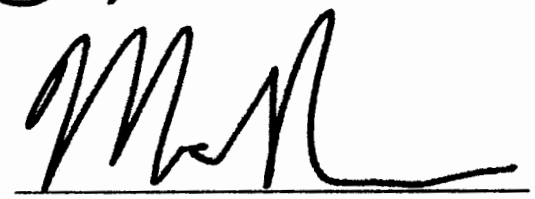


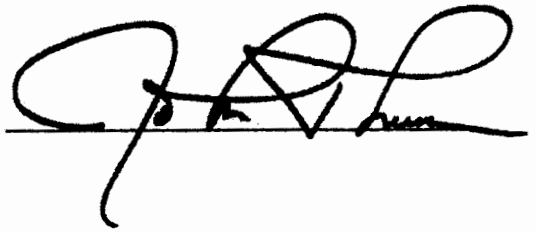


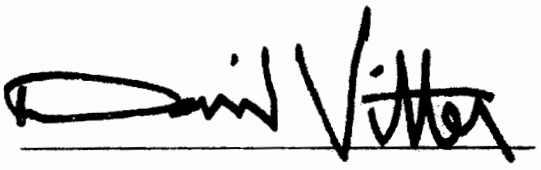
Jerry Moran











ROY BLUNT
MISSOURI

260 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2508
202-224-5721

R7 11-001-5195C

United States Senate

WASHINGTON, DC 20510

COMMITTEES:
APPROPRIATIONS

COMMERCE, SCIENCE AND TRANSPORTATION

RULES AND ADMINISTRATION

SELECT COMMITTEE ON INTELLIGENCE

September 6, 2011

Congressional Liaison
Environmental Protection Agency
Region VII
901 North 5th Street
Kansas City, Kansas 66101

Dear Liaison:

Enclosed is a copy of a letter my office has received from [illegible] regarding concerns he has regarding the contamination of the environment from the Weldon Springs bunker.

Please provide an explanation of this matter to my constituent directly. Thank you for your time and attention to this matter.

Sincere regards,

Roy Blunt

Roy Blunt
United States Senator

Enclosure
cc: Mr. Don Placke

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<EMAIL></EMAIL>
<ISSUE>Environment</ISSUE>
<MSG>The message is more of question . A question that you will not be able to answer . It is in regards to Weldon Springs 41 acre nuclear waste bunker . How can anyone think that leaving 50 years of U S government mistakes in deciding what is best for an immediate million citizens . This bunker is near two major rivers that supply water to a million people in and around St. Louis Missouri . The government was so cruel they thought for public relations it would be good to give land for a school next to the bunker. They then give land to St. Charles for the water supply to the city . Within 2 miles of this they give warning to not eat the fish from waters near by for fear of major health risk . What are you people in Washington smoking ? They further decide to make the entire radioactive bunker a tourist attraction . So I assume from this you and your friends think we are just lab mice for your testing . My daughter now lives just miles from this site. I just discovered all that I am writing about in the last few days. It all make me sick just thinking about what my government has done.</MSG>
</APP>

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 NORTH 5TH STREET
KANSAS CITY, KANSAS 66101

SEP 27 2011

OFFICE OF
THE REGIONAL ADMINISTRATOR

Exempt 6
Exempt 6

Dear Mr Exempt 6

This letter is in response to a letter dated September 6, 2011, the U.S. Environmental Protection Agency, Region 7 received from U.S. Senator Roy Blunt. Senator Blunt has asked EPA to directly respond to you addressing your concerns about the Weldon Spring Site in Weldon Spring, Missouri.

The site has been remediated by the U.S. Department of Energy in accordance with the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act as amended by the Superfund Amendments and Reauthorization Act of 1986. The EPA and the Missouri Department of Natural Resources performed oversight throughout the remedial process. The remedy selection process took into account future land uses of the site and the surrounding area and addresses the exposure concerns raised in your letter. The remedial process also included community involvement activities to engage the public in the remedy selection process. The remedy has reached physical completion, and long-term surveillance and maintenance has become the main focus of the project. Past evaluations at the site have found the remedy to be protective of human health and environment.

As required by CERCLA, the site is re-evaluated every five years to ensure the remedy remains protective. The DOE conducts the review, and the EPA and MDNR perform independent assessments of remedy protectiveness and concur, as appropriate. The most recent five-year review is currently being finalized. The five-year review report will be made available to the public in the coming weeks through the EPA website. A hard copy of the report will also be placed at the site information repository. Below, is a link to the five-year review search page and the address of the repository. We encourage you to read the report when it is completed. The five-year review report provides historical information about the site along with an assessment of current site conditions. The questions and concerns that you raise in your letter are addressed in the report. The EPA and MDNR will continue to assess the site for years to come to ensure that it is protective of both human health and the environment.

EPA five-year review internet search page:

http://www.epa.gov/superfund/sites/fiveyear/

Weldon Spring Site information repository:

Middendorf-Kredell Branch Library
St. Charles City-County Library District
2750 Hwy K
O'Fallon, Missouri 63366

If we can be of additional assistance, please feel free to contact Hoai Tran, Remedial Project Manager, at 913-551-7330 or tran.hoai@epa.gov.

Sincerely,

Karl Brooks

cc: Sen. Roy Blunt

AL 12-001-9810

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

November 30, 2012

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We are asking you to immediately clarify and, if necessary, provide additional guidance regarding the applicability and extent of the Environmental Protection Agency's (EPA) "Lead: Renovation, Repair and Painting Rule" (LRRP) for the recovery from Hurricane Sandy.

As you know, Sandy has affected many, many lives, and while we have no estimates for individual property damages yet, disaster and emergency declarations are currently in place for more than 260 counties in North Carolina, Virginia, West Virginia, Maryland, the District of Columbia, Pennsylvania, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and New Hampshire.

Previously, EPA Region 4 issued guidance on May 14, 2010, following the devastating flooding in Tennessee on May 1-2, 2010, and has issued a September 2011 fact sheet (EPA-740-F-11-01) on emergency renovations. As EPA has stated in these documents, emergency renovations are exempted from the following LRRP requirements: information distribution, posting of warning signs at the renovation site, containment of dust, and waste handling requirements. Certified firms performing emergency renovations are not exempt from the cleaning, cleaning verification, and recordkeeping requirements. Additionally, these exemptions only apply to the renovations that are immediately necessary to protect personal property and public health, but do not apply to the work being done to put homes back together following the emergency portions of the renovation.

We have always believed that the LRRP rule provides important health protections, and we remain completely supportive of ensuring that children and pregnant women are protected from preventable lead dust exposure. We want emergency recovery work done on target housing with target populations in the wake of Sandy to be performed by firms and contractors who are certified and compliant with LRRP work practices.

We believe that the current guidance is uncertain and may unintentionally dissuade LRRP firms from working in pre-1978 homes and may potentially slow the recovery for those families. During an emergency renovation, questions and confusion about when normal LRRP provisions apply and uncertainty regarding liability from recordkeeping errors may unintentionally deter LRRP contractors from performing work on pre-1978 homes. Additionally, because LRRP only applies to firms that receive compensation for work, and not volunteers or homeowners performing their own

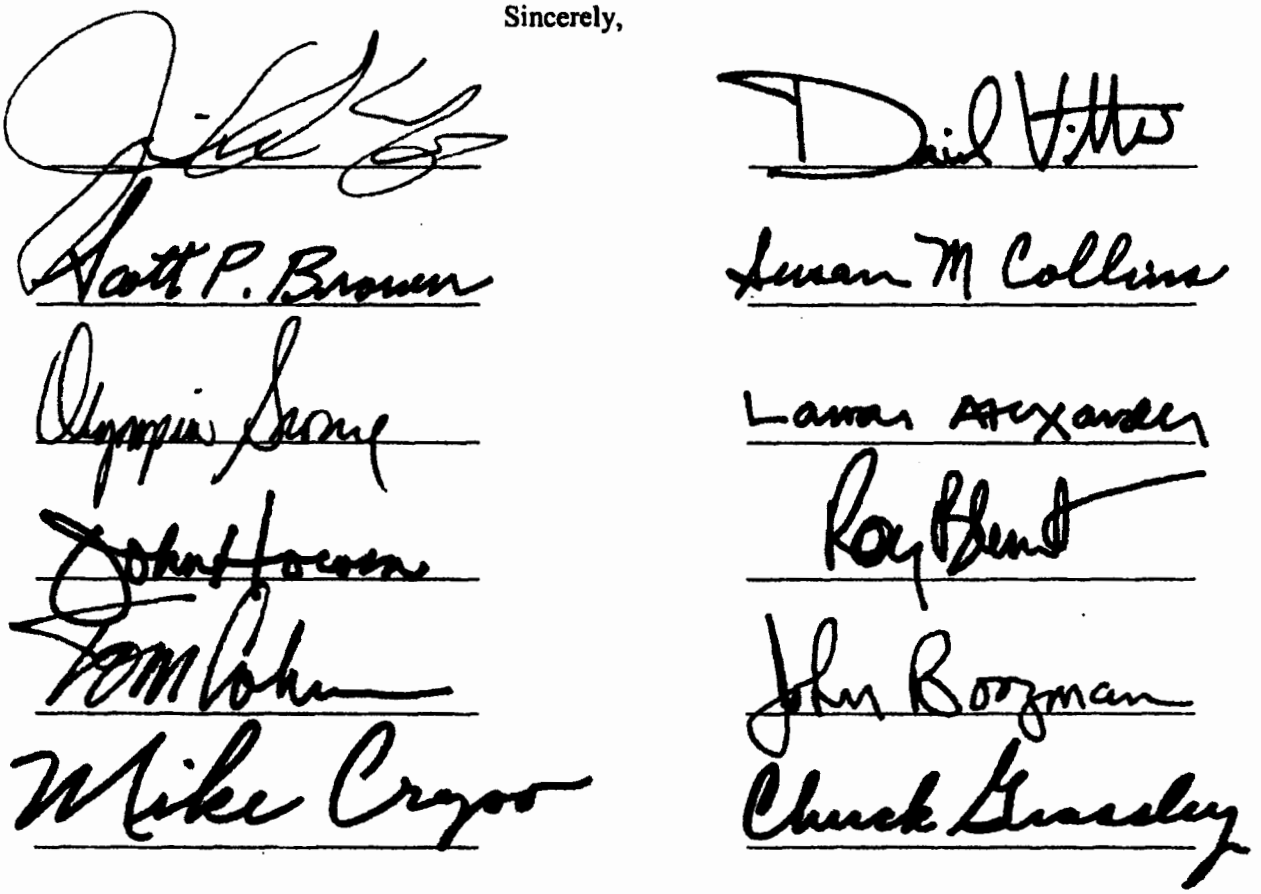
repairs, we are concerned that confusion regarding how EPA will enforce LRRP following Sandy could result in non-LRRP certified individuals doing more work in pre-1978 homes.

Given the significant amount of renovation and repair to target housing and child occupied facilities that will be necessary to recover from Sandy, and that we are fast approaching the coldest months of the year, we request that you immediately provide clarity regarding how EPA will apply and enforce LRRP for this emergency situation. Additionally, we ask that you consider a temporary waiver of the recordkeeping requirements, or provide clear additional enforcement guidance and discretion so that LRRP certified firms are not unintentionally deterred from performing work during this chaotic and pressing time. We do not want to see confusion or uncertainty hinder recovery or inhibit public health protection.

We believe that this action is exactly what President Obama spoke about on October 30th, when he spoke at the American Red Cross saying ". . .[M]y instructions to the federal agency has been, do not figure out why we can't do something; I want you to figure out how we do something. I want you to cut through red tape. I want you to cut through bureaucracy. . ." We do not want to see the red tape of LRRP recordkeeping stop one family or childcare facility from being renovated in a timely fashion by the appropriately trained and well qualified firms.

We appreciate your prompt attention to this matter, and ask that you keep us informed of all actions that you are taking in regards to LRRP and the recovery from Sandy.

Sincerely,



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 3 1 2012

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of November 30, 2012, to the U.S. Environmental Protection Agency's Administrator, Lisa P. Jackson, addressing how the Lead Renovation, Repair, and Painting Rule affects renovations performed under emergency conditions, particularly as this affects repairs in the wake of Hurricane Sandy.

In mid-November 2012, just days after the storm, EPA posted a new web page entitled, Hurricane Sandy Response and Recovery, to assist those dealing with post-disaster issues. The website can be found at http://www.epa.gov/sandy/index.html. As part of this effort, EPA included information on how the RRP rule applies in emergencies such as Hurricane Sandy. The website provides a downloadable/ printable copy of the enclosed EPA fact sheet, as well as links to state and local authorities who may also assist the public in dealing with this and other issues.

As your letter highlights, RRP emergency exemption provisions have been implemented previously in response to other natural disasters. In response to these events, the EPA has taken measures to make this information easily obtainable and provide further clarity on the emergency provision. For example, in 2010, following the severe flooding in Tennessee and nearby states, the EPA issued specific guidance on the applicability of the emergency exemption. The EPA's Regional Offices are at the forefront of distributing this information and, as you note, the Region 4 Office offered guidance after severe flooding in Tennessee in May 2010. Similarly, the agency provided guidance on emergency renovations after tornadoes in Joplin, Missouri, and elsewhere in the southeast in the spring of 2011. In addition, in September 2011, the EPA issued a nationwide fact sheet on the emergency exemption guidance. This EPA assistance and guidance have resulted in successful implementation of the emergency provisions and thereby streamlined compliance with the RRP rule requirements.

As you may know, the intent of the emergency provision in the RRP rule is to allow emergency repairs to be performed in a lead-safe yet streamlined manner. In providing for the emergency provision, the agency attempted to provide for speedy initial repairs by eliminating requirements such as notice, initial waste handling, and contractor training and certification. However, there are compelling reasons for conducting renovations under lead-safe conditions such as cleaning, cleaning verification, and recordkeeping to document the use of lead-safe practices: they confirm that the dwelling is lead-safe. The recordkeeping requirements are neither onerous nor difficult to understand. The EPA's one-page

sample recordkeeping checklist demonstrates how easy it is to comply with the recordkeeping requirements. Renovation firms who take advantage of the emergency renovation provisions need only add a short description of the nature of the disaster and a short explanation of why certain RRP rule requirements could not be followed.

Given the successful implementation of the emergency provision guidance during disaster situations in Tennessee, Missouri, and other areas, the EPA believes that a temporary waiver of the recordkeeping requirements for those impacted by Hurricane Sandy is not warranted and contrary to our shared goal of protecting public health. The RRP recordkeeping requirements are not only very simple and straightforward but also provide a useful tool for confirming what occurred in the course of renovation. This ensures that residents, already burdened with issues resulting from a natural disaster, are not doubly burdened by uncertainty regarding whether their home will pose a health threat.

Again, thank you for your letter. I hope the information provided is helpful to you. If you have additional questions, please contact me, or your staff may contact Mr. Sven-Erik Kaiser in the EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,

James J. Jones
Acting Assistant Administrator

Enclosure

EPA

Nov 2012

Post-Disaster Renovations and Lead-Based Paint

Natural disasters, such as tornadoes, hurricanes, earthquakes or floods, often result in the need for renovations to damaged homes and other structures. When common renovation activities like sanding, cutting, and demolition occur in structures that contain lead-based paint, such activities create lead-based paint hazards, including lead-contaminated dust. Lead-based paint hazards are harmful to both adults and children, but particularly pregnant women and children under age six.

To protect against health risks, EPA's Renovation, Repair and Painting (RRP) Rule is designed to minimize exposure to lead-based paint hazards. Under this Rule, contractors performing renovation, repair and painting projects that disturb painted surfaces in homes and child-occupied facilities (including day care centers and schools), built before 1978, must, among other things, be certified and follow lead-safe work practices. For complete information about the RRP Rule and its requirements, go to: www.epa.gov/lead/pubs/renovation.htm#requirements.

To ensure that property owners and occupants are able to act quickly to preserve their homes and property in the wake of disasters, the RRP Rule includes an emergency provision exempting firms from certain requirements. See 40 CFR 745.82(b). Emergency renovations are defined as renovation activities that were not planned but result from a sudden, unexpected event that, if not immediately attended to, present a safety or public health hazard, or threaten equipment and/or property with significant damage. See the RRP Frequent Questions (FQ), #23002-32367, available at: http://toxics.supportportal.com/ics/support/splash.asp?deptID=23019.

What is EPA's Renovation, Repair and Painting (RRP) Rule?

Contractors performing renovation, repair and painting projects that disturb more than six square feet of painted surfaces in homes and child occupied facilities (including day care centers and schools) built before 1978 must, among other things, be certified and follow lead-safe work practices. Federal law requires that individuals receive certain information, such as EPA's Renovate Right brochure, before starting work.

Under the emergency provision of the RRP Rule, contractors performing activities that are immediately necessary to protect personal property and public health need not be RRP trained or certified and are exempt from the following RRP Rule requirements: information distribution, posting warning signs at the renovation site, containment of dust, and waste handling. Firms are NOT exempt from the RRP Rule's requirements related to cleaning, cleaning verification, and recordkeeping. Further, the exemption applies only to the extent necessary to respond to the emergency. Once the portion of the renovation that addresses the source of the emergency is completed, the remaining activities are subject to all requirements of the RRP Rule.

My home has been severely damaged and will require extensive renovations. Does the RRP Rule apply?

The RRP Rule does not apply to an activity that demolishes and rebuilds a structure to a point where it is effectively new construction. Thus, in pre-1978 homes and child-occupied facilities where all interior and exterior painted surfaces (including windows) are removed and replaced, the provisions of the RRP Rule would not apply. Activities involving the removal and replacement of only some interior and exterior painted surfaces would still be covered under the RRP Rule. For more information, see the Frequent Questions (FQs 23002-18426 and 23002-23415) on our website at: http://epa.gov/lead/pubs/rrp-faq.pdf.

continued on back >

AL 13-000-7389

ROY BLUNT
MISSOURI

VICE CHAIR, SENATE REPUBLICAN CONFERENCE

260 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2508
202-224-5721

United States Senate

WASHINGTON, DC 20510

COMMITTEES
APPROPRIATIONS
ARMED SERVICES
COMMERCE, SCIENCE AND TRANSPORTATION
RULES AND ADMINISTRATION

July 9, 2013

The Honorable Jo-Ellen Darcy
Assistant Secretary of the Army, Civil Works
108 Army Pentagon
Washington, DC 20310

The Honorable Bob Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

The Honorable Dan M. Ashe
Director
U.S. Fish and Wildlife Service
1849 C St., NW, Room 3331
Washington, DC 20240

Dear Assistant Secretary Darcy, Acting Administrator Perciasepe, and Director Ashe:

Thank you for your July 8, 2013, letter regarding the St. Johns Bayou and New Madrid Floodway Project (SJNM) draft Environmental Impact Statement (EIS). Unfortunately, this letter still fails to answer one simple and fundamental question: do all of the agencies agree on the facts surrounding this project?

As you know, the continued internal disagreement surrounding the fundamental facts has caused an unacceptable and prolonged delay of the release of the draft EIS. On February 27, 2013, every agency committed during a meeting with Senator McCaskill and me that there would be an agreement on the facts by March 15, 2013. This deadline was set by former Principal Deputy Assistant Secretary of the Army exempt 6, and each participant in that meeting verbally agreed to the deadline.

I am not asking the federal government to spend a dime or for the agencies to green light the project's construction. All I've asked is for three government agencies to agree on a simple set of facts. Yet more than 100 days later, I am still waiting for the agencies to meet their own self-imposed deadline, and as a result, I remain uncertain as to whether the agencies have, in fact, reached an agreement on underlying facts of the project.

In addition to this fundamental underlying question, I hope you will explain the following:

1. It appears there is not even agreement on wetlands acreage; your letter only states that EPA and the Corps have come to a "common understanding" on the issue. Has the U.S. Fish and Wildlife Service (FWS) come to this "common understanding?" And does a "common understanding" amount to an agreement on the facts? FWS uses National Wetland Inventory Maps to make wetlands determinations, so their input is an integral part of this assessment under the draft EIS.

2. I appreciate your attention to the amount of wetlands acres present at the site; however, this is not the only fact in dispute on wetlands. For instance, I noted in a March 12, 2012, letter that EPA had created a brand new classification for wetlands, entitled "wetlands in agricultural areas." In the agency's response on April 20, 2012, EPA stated this was used to "distinguish between cropped and non-cropped wetlands." The Natural Resource Conservation Service (NRCS) at the U.S. Department of Agriculture (USDA) is responsible for identifying wetlands on farmland. Has NRCS agreed to this new definition?

3. Finally, and most importantly, the disagreement on the amount of wetlands present is not the only fact in dispute underlying this project. Of the 471 comments the Corps received on the draft EIS, 115 of them concerned some area of mitigation. Previous mitigating actions taken by the Corps were challenged in the 2007 D.C. Circuit case granting an injunction against work on the project. Has there been an agreement from the Corps, the EPA, and FWS on whether or not proposed mitigation actions in the new draft EIS are both valid and adequate?

As the saying goes, you're entitled to your own opinion, but you're not entitled to your own facts. The government needs to stop arguing with the government. I look forward to hearing conclusively whether the Corps, EPA, and FWS have reached an agreement on all of the facts surrounding this project, as they committed to do by March 15, 2013.

Sincere regards,

Roy Blunt
U.S. Senator

The Honorable Roy D. Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of July 9, 2013, regarding the ongoing environmental impact assessment process for the St. Johns Bayou and New Madrid Floodway Project. We understand the importance of this project to the communities in southeast Missouri, and we remain committed to working to assure timely decision-making.

The U.S. Army Corps of Engineers (Corps), the U.S. Environmental Protection Agency (EPA), and the U.S. Fish and Wildlife Service (FWS) have been working collaboratively to evaluate the proposed Project. As the lead federal agency responsible for conducting the required National Environmental Policy Act review of the proposed project, the Corps released a draft Environmental Impact Statement (DEIS) for public review on July 26, 2013, for a 45-day public comment period. To provide additional time for public review, the Corps subsequently extended the public comment period until November 25, 2013.

The EPA and FWS are working now to provide comments to the Corps within the Corps' schedule so that the Corps may begin their consideration of these recommendations as soon as possible. We hope that by providing comments in a timely manner, we can help to assure that Corps decision-making may proceed as quickly as possible.

Your letter requests additional information on the extent to which the agencies have a common understanding of the potential impacts of the proposed Project. We can assure you that the agencies' review of the impacts of the proposed project is focused on the functions of the potentially affected areas rather than solely on the number of acres that would be impacted. For example, the Corps' DEIS incorporates an approach to quantify the potential impacts to habitat function of affected wetlands, for which the Corps categorized the habitat types in the study area and performed an analysis of the potential impacts, both beneficial and adverse. The EPA and FWS look forward to providing comments to the Corps regarding this approach.

Your letter also requests clarification regarding whether the Natural Resources Conservation Service (NRCS) recognizes the term "wetlands in agricultural areas." NRCS staff advised us that this term is not used in the Food Security Act or NRCS regulations. NRCS will continue to complete their analysis utilizing terminology consistent with the Food Security Act.

Finally, your letter requests further information on whether the agencies are consistent in the mitigation they believe would be necessary to compensate for the Project's impacts. We are working closely together now on this important issue and look forward to reaching a conclusion soon after we have a more complete picture of the total impacts that will require mitigation.

We will continue to provide updates to your staff in a timely manner. Thank you for your interest in this study.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator for Water
U.S. Environmental Protection Agency

Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)

Daniel M. Ashe
Director
U.S. Fish and Wildlife Service

AL 14-000-16006

United States Senate

WASHINGTON, DC 20510

November 14, 2013

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250

The Honorable Sylvia Mathews Burwell
Director
Office of Management and Budget
725 17th St., N.W.
Washington, D.C. 20503

Dear Administrator McCarthy, Secretary Vilsack, and Director Burwell:

We write to encourage the Administration to develop a 2014 regulatory proposal for the Renewable Fuel Standard (RFS) that supports the current-year projected 1.7 billion gallons of U.S. biodiesel production.

Biodiesel has exceeded RFS targets in each year and is clearly poised to do so again in 2013. The industry has had impressive growth, going far beyond initial expectations just five years ago, and is supporting 62,160 jobs and nearly $17 billion in total economic impact. Biodiesel is improving our energy security by reducing our dependence on imported petroleum diesel, diversifying fuel supplies and creating competition in the fuels market.

Setting the 2014 biodiesel volume requirement at reduced levels could have severe impacts on the domestic biodiesel industry. Further, a continuation of 2013 levels paired with any reduction in advanced biofuels targets could similarly negatively impact the industry.

Biodiesel is the only Environmental Protection Agency (EPA)-designated advanced biofuel to achieve commercial-scale production nationwide and the first to reach 1 billion gallons of annual production. Keeping the targets stagnant, rather than gradually allowing the biodiesel industry to grow, could leave 400 million gallons of biodiesel potentially unused – roughly 25 percent. Such a cut could result in nearly every small facility shutting down and permanently ceasing production of biodiesel, leading to the loss of some 7,000 jobs. Additionally, investment and financing for the U.S. biodiesel industry could be severely jeopardized, creating new and possibly insurmountable hurdles for the remaining producers to grow and expand.

In setting 2014 targets for biodiesel, the EPA should avoid outcomes that could lead to plant closures, worker layoffs, and uncertainty over future investments in the biodiesel industry. We urge you to continue to support this fragile and growing industry with a reasonable increase in the RFS volume requirement for 2014.

Thank you for your consideration.

Sincerely,

Patty Murray
United States Senate

Roy Blunt
United States Senate

Al Franken
United States Senate

Chuck Grassley
United States Senate

Mark Pryor
United States Senate

Joe Donnelly
United States Senate

Angus King
United States Senate

Jack Reed
United States Senate

Tim Johnson
United States Senate

Heidi Heitkamp
United States Senate

Jon Tester
United States Senate

Martin Heinrich
United States Senate

Mike Johanns
United States Senate

Tom Harkin
United States Senate

Sheldon Whitehouse
United States Senate

Bob Casey
United States Senate

Deb Fischer
United States Senate

Claire McCaskill
United States Senate

Brian Schatz
United States Senate

Amy Klobuchar
United States Senate

Tom Udall
United States Senate

Mazie Hirono
United States Senate

Sherrod Brown
United States Senate

Maria Cantwell
United States Senate

Jeff Merkley
United States Senate

Debbie Stabenow
United States Senate

Dick Durbin
United States Senate

Susan Collins
United States Senate

Jeanne Shaheen
United States Senate

Mark Kirk
United States Senate

Kay Hagan
United States Senate

Richard Blumenthal
United States Senate

cc: The Honorable Howard Shelanski, Administrator, Office of Information and Regulatory Affairs

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 27, 2014

The Honorable Roy Blunt
United States Senate
Washington, DC 20510

Dear Senator Blunt:

Thank you for your letter dated November 14, 2013, to Office of Management and Budget (OMB) Director Sylvia M. Burwell, United States Department of Agriculture (USDA) Secretary Tom Vilsack, and Environmental Protection Agency (EPA) Administrator Gina McCarthy, about the rulemaking titled, *2014 Standards for the Renewable Fuel Standard Program*. They have asked me to respond on their behalf. Your letter encouraged the Administration to develop a proposed rule for the 2014 volumes under the Renewable Fuel Standard that would support a current-year projected U.S. biodiesel production of 1.7 billion gallons.

On August 30, 2013, EPA submitted a draft of its proposed rule to the Office of Information and Regulatory Affairs (OIRA) for review under Executive Orders 12866 and 13563. OIRA concluded its review on November 15, 2013. For the proposed rule, EPA developed several methodologies for evaluating the expected availability of qualifying renewable fuels as well as factors that in some cases limit supplying those fuels to the vehicles and equipment that can consume them. Based on that analysis and use of its waiver authorities, EPA proposed reductions from the statutory levels for the 2014 volumes of cellulosic biofuel, advanced biofuel, and total renewable fuel. EPA also proposed to maintain the same volume for biomass-based diesel for 2014 and 2015 as adopted for 2013, but requested comment on whether to raise the biomass-based diesel volume requirement. EPA also requested comment on many aspects of the proposed rule, including the methodologies used to develop the proposed volumes, and will consider your input and all comments received as it works to develop a draft final rule. OIRA and USDA will also take your input under consideration during interagency review of the draft final rule.

Thank you again for sharing your important perspective on this rulemaking. If you or your staff have any questions, please contact Kristen J. Sarri, Associate Director for Legislative Affairs, at (202) 395-4790.

Sincerely,

Howard Shelanski

Howard Shelanski
Administrator
Office of Information and Regulatory Affairs

cc: The Honorable Tom Vilsack, USDA
The Honorable Gina McCarthy, EPA

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 27, 2014

The Honorable Chuck Grassley
United States Senate
Washington, DC 20510

Dear Senator Grassley:

Thank you for your letter dated November 14, 2013, to Office of Management and Budget (OMB) Director Sylvia M. Burwell, United States Department of Agriculture (USDA) Secretary Tom Vilsack, and Environmental Protection Agency (EPA) Administrator Gina McCarthy, about the rulemaking titled, *2014 Standards for the Renewable Fuel Standard Program.* They have asked me to respond on their behalf. Your letter encouraged the Administration to develop a proposed rule for the 2014 volumes under the Renewable Fuel Standard that would support a current-year projected U.S. biodiesel production of 1.7 billion gallons.

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Thank you again for sharing your important perspective on this rulemaking. If you or your staff have any questions, please contact Kristen J. Sarri, Associate Director for Legislative Affairs, at (202) 395-4790.

Sincerely,

Howard Shelanski

Howard Shelanski
Administrator
Office of Information and Regulatory Affairs

cc: The Honorable Tom Vilsack, USDA
The Honorable Gina McCarthy, EPA

AL 14-000-4154

United States Senate

WASHINGTON, DC 20510

January 22, 2014

The Honorable Gina McCarthy
EPA Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Administrator McCarthy:

We are writing to share serious concerns regarding the EPA's proposal for the 2014 Renewable Volume Obligations (RVOs) under the Renewable Fuel Standard (RFS.) Congress passed the RFS to increase the amount of renewable fuel utilized in our nation's fuel supply. The Administration's proposal is a significant step backward – undermining the goal of increasing biofuels production as a domestic alternative to foreign oil consumption. Further, the proposed waiver places at risk both the environmental benefits from ongoing development of advanced biofuels and rural America's economic future. We urge you to modify your proposal.

The Renewable Fuel Standard (RFS) provides the EPA with significant authority to adjust to shifting conditions over the 15-year life of the policy. In any given year, EPA can adjust the advanced biofuel and total biofuel volumes based on anticipated production. While EPA has used the authority to adjust biofuels levels in the past based on anticipated production levels, your proposal, for the first time, adjusts the 2014 overall volumes based on criteria not clearly identified in the law *below* anticipated production levels of biofuels and even *below* previous years' RFS levels.

Further, defining the "blend wall" as blends of E10 and then waiving RFS requirements beyond the blend wall creates significant barriers to future biofuels growth. Lack of infrastructure remains one of the key hurdles to further deployment of biofuels into the market. Limiting RFS to levels that can be met with existing infrastructure eliminates incentives to invest in the technologies and infrastructure necessary to meet our domestic policy goal of increasing biofuels production and use.

If the rule as proposed were adopted, it will:

- Replace domestic biofuel production with fossil fuels, contributing to a greater dependence on foreign sources of oil and reduce our energy security.
- Increase unemployment as renewable fuel producers cut back production.
- Halt investments in cellulosic, biodiesel and other advanced renewable fuels. Rolling back the RFS will, potentially strand billions of dollars of private capital;
- Undermine the deployment of renewable fuels infrastructure throughout the country;
- Threaten the viability of the RFS, thereby solidifying an oil-based transportation sector and lowering consumer choice at the pump.

With these concerns in mind, we request that EPA revise the proposed 2014 RVOs in a manner that promotes investments in the next generation of biofuels and the infrastructure necessary to deploy those fuels into the market. Without a revised proposal, the EPA's rule will bring severe economic consequences, and prevent the growth of the renewable fuel sector.

Thank you in advance for your consideration.

Sincerely,

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 18 2014

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter dated January 22, 2014, to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the 2014 volume requirements under the Renewable Fuel Standard (RFS) program. The Administrator has asked me to respond to you on her behalf.

On November 29, 2013, the EPA published in the *Federal Register* a proposed rule that would establish the 2014 RFS volume standards. In developing the proposed volumes, the EPA used the most recent data available and took into consideration multiple factors. Our analysis included an evaluation of both the expected availability of qualifying renewable fuels as well as factors that, in some cases, limit supplying those fuels to the vehicles and equipment that can consume them. On the basis of our analysis, we proposed to reduce the required volumes from statutory levels for 2014 for cellulosic biofuel, advanced biofuel, and total renewable fuel. We proposed to maintain the same volume for biomass-based diesel for 2014 and 2015 as was adopted for 2013, but we have requested comment on whether to raise the biomass-based diesel volume requirement.

I want to emphasize that this is a proposal, and that the EPA has requested comment on many aspects of the proposed rule, including the methodology for determining volumes. The EPA also expects to receive additional data before finalizing the rule. We will take your input under consideration as we, in conjunction with the U.S. Department of Agriculture and the U.S. Department of Energy, work towards finalizing this rule, and your letter has been placed in the rulemaking docket.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at haman.patricia@epa.gov or (202) 564-2806.

Sincerely,

Janet G. McCabe
Acting Assistant Administrator

AL 14-000-8047

United States Senate

WASHINGTON, DC 20510

April 10, 2014

The Honorable Tom Vilsack
US Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20010

The Honorable Ernest Moniz
US Department of Energy
100 Independence Ave., S.W.
Washington, D.C. 20585

The Honorable Gina McCarthy
US Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Dear Secretary Vilsack, Secretary Moniz, and Administrator McCarthy:

We are writing today in regards to the president's plan released on March 28, 2014, to reduce methane emissions. In particular, we are concerned about potential actions against the agriculture community to regulate methane and other greenhouse gas (GHG) emissions, which could severely impact the livestock industry.

The president's Climate Action Plan "Strategy to Reduce Methane Emissions" targeted a number of industries for methane emission reductions, including agriculture. Specifically the plan calls on the U.S. Department of Agriculture (USDA), Environmental Protection Agency (EPA), and Department of Energy (DOE) to outline a "Biogas Roadmap" to reduce dairy sector GHG emissions by 25 percent by 2020 through voluntary strategies.

Federal regulations of GHGs in the agriculture sector would have detrimental implications on livestock operations across the country. In 2008, as part of its Advanced Notice of Proposed Rulemaking to regulate GHGs under the Clean Air Act, the EPA deliberated regulating agriculture-related emissions, which would have required farmers to purchase expensive permits. It was estimated that these top-down regulations would have cost medium-sized dairy farms with 75 to 125 cows between $13,000 and $22,000 a year, and medium-sized cattle farms with 200 to 300 cows between $17,000 and $27,000. We reject the notion that the EPA should, absent express authorization from Congress, seek to regulate the agriculture sector in this manner.

The agriculture community is committed to environmental stewardship, which is evidenced by the 11 percent reduction in agriculture-related methane emissions since 1990. It is our hope that the EPA, USDA, and DOE will work with Congress and the agriculture industry to outline voluntary measures that can be taken to reduce emissions without imposing heavy-handed regulations on farms across America. We respectfully request that you commit in writing to refrain from proposing new regulations, guidelines, or other mandatory requirements on methane or other GHGs from the agriculture industry.

Thank you for your consideration and attention to this matter.

Sincerely,

AL 14-000-1802

Congress of the United States
Washington, DC 20515

November 13, 2013

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator McCarthy,

As members of the Senate and Congressional Western Caucuses, we are contacting you regarding our opposition to the Environmental Protection Agency's (EPA) efforts to significantly expand federal regulatory authority under the Clean Water Act.

As you know, the EPA has sent a draft rule to the Office of Management and Budget (OMB) regarding the definition of "the waters of the United States" under the Clean Water Act. Based on EPA's draft scientific report, "Connectivity of Streams and Wetlands to Downstream Waters," and the agency's commitment to rely on this report during the rulemaking process, we are concerned that EPA's final rule may in effect expand federal jurisdiction over all wet areas of a state. This is despite Congress's limiting of the EPA's and the Army Corps of Engineers' authority under the CWA, as the Supreme Court has consistently recognized.

EPA has indicted the following regarding the so-called Connectivity Report:

> *"This report, when finalized, will provide a scientific basis needed to clarify Clean Water Act jurisdiction, including a description of the factors that influence connectivity and the mechanisms by which connected waters affect downstream waters. Any final regulatory action related to the jurisdiction of the Clean Water Act in a rulemaking will be based on the final version of this scientific assessment, which will reflect EPA's consideration of all comments received from the public and the independent peer review."*

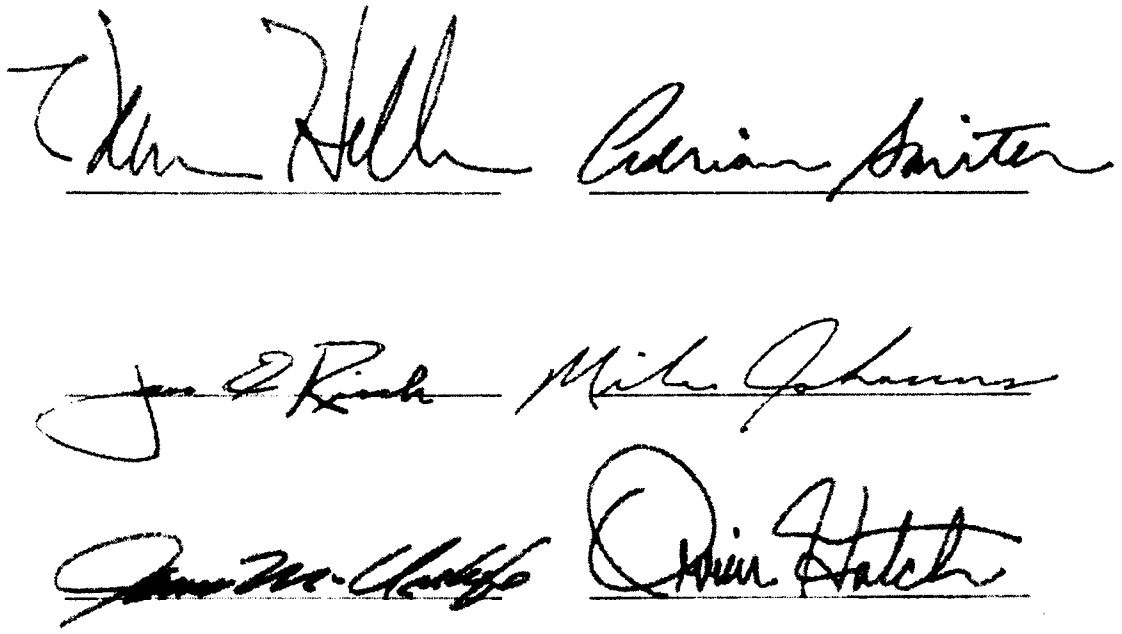
If EPA believes that the law should be changed based on new scientific research, we would welcome you sending any proposals to Congress for our consideration. Issuing reports and using them to potentially change a law duly passed by Congress would invite legitimate legal challenges and further erode the public's confidence in our Constitutional system of checks and balances.

As you may be aware, there has been strong opposition to past efforts to have the federal government control all wet areas of the states. Most recently during consideration of the Water Resources Development Act (WRDA), a bipartisan group of Senators voted 52 to 44 to reject the EPA's Clean Water Act Jurisdiction Guidance which would have also resulted in effectively unlimited jurisdiction over intrastate water bodies. Efforts to pass legislation to have the federal government control all non-navigable waters have also failed in past Congresses.

Strong opposition to EPA's approach is based on the devastating economic impacts that a federal takeover of state waters would have. Additional regulatory costs associated with changes in jurisdiction and increases in permits will erect bureaucratic barriers to economic growth, negatively impacting farms, small businesses, commercial development, road construction and energy production, to name a few. In addition, expanding federal control over intrastate waters will substantially interfere with the ability of individual landowners to use their property.

We urge you to change course and to commit to operating under the limits established by Congress, even if those limits are impermissibly overlooked in the so-called Connectivity Report. We ask that you work with Congress to address these issues keeping in mind the need to provide clean water for our environment and communities, while also acknowledging the important role states play as a partner in achieving these goals. We also ask that you consider the economic impacts of your policies knowing that your actions will have serious impacts on struggling families, seniors, low income households and small business owners.

Sincerely,



UNITED STATES SENATOR
JOHN BARRASSO

307 Dirksen Senate Office Building, Washington, D.C. 20510

FACSIMILE TRANSMISSION

To: EPA Congressional Liaison

Fax number: 202-501-1519

From: Brian Clifford, Sen. Barrasso's Office 202-2240800

____ Pages following this cover sheet.

NOTES: _____

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If you encounter problems with this fax, please contact the office of Senator John Barrasso at (202) 224-6441

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

MAY - 9 2014

OFFICE OF WATER

Dear Senator Blunt:

Thank you for your November 13, 2013, letter to the U.S. Environmental Protection Agency regarding the EPA's joint rulemaking efforts with the U.S. Army Corps of Engineers to revise the agencies' regulatory definition of the term "Waters of the United States" under the Clean Water Act.

On March 25, the agencies released a proposed rule in order to provide additional clarity regarding the geographic scope of Clean Water Act jurisdiction and to improve national consistency and predictability. The agencies took this step in response to requests from a broad range of interests including industry, agriculture, states, environmental groups, and other stakeholders that we clarify the geographic scope of Clean Water Act jurisdiction through formal notice and comment rulemaking. The agencies' proposed rule was published in the Federal Register on April 21, which began a 90-day public comment period. During this period, the agencies are launching a robust outreach effort, holding discussions around the country and gathering input needed to shape a final rule.

Your letter expresses concerns that the agency's rulemaking efforts will yield a proposed rule that is inconsistent with the Clean Water Act. In particular, your letter expresses concerns that the agencies will use the EPA's draft scientific report, "Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence," in a way that will disregard the limitations on the agencies' authority outlined in the Clean Water Act. I can assure you that the agencies respect the limits on Clean Water Act jurisdiction established in the statute as well as in Supreme Court decisions on this issue. The agencies' proposed rule does not protect any new types of waters that have not historically been covered under the Clean Water Act and is consistent with the Supreme Court's more narrow reading of Clean Water Act jurisdiction. At the same time, the agencies' efforts are being informed by the latest peer-reviewed science, including the EPA's draft scientific report, which presents a review and synthesis of more than 1,000 pieces of scientific literature.

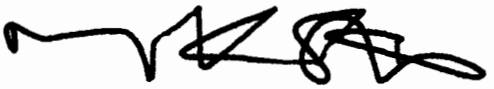
Your letter also expresses concerns regarding the potential economic impacts of the agencies' rulemaking efforts. The agencies' proposed rule will help clarify protection under the Clean Water Act for streams and wetlands that form the foundation of the nation's water resources, and will benefit businesses by increasing efficiency in determining coverage of the Clean Water Act. The agencies conducted an economic analysis of the impacts of the proposed rule, which found that the benefits of the proposed rule would exceed the costs. The agencies made this analysis publicly available at the time they released the proposed rule.[1]

[1] This analysis is available at http://www2.epa.gov/sites/production/files/2014-03/documents/wus_proposed_rule_economic_analysis.pdf.

The agencies' proposed rule is now open for public comment, and we welcome comments from you and your constituents during the 90-day public comment period. Comments can be submitted through www.regulations.gov in Docket No. EPA-HQ-OW-2011-0880.

Thank you again for your letter. Please feel free to contact me if you have any questions on this important issue, or your staff may call Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at borum.denis@epa.gov or (202) 564-4836.

Sincerely,



Nancy K. Stoner
Acting Assistant Administrator

UAL 14-001-4924

United States Senate

WASHINGTON, DC 20510

September 11, 2014

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
U.S. EPA Headquarters – William J. Clinton Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator McCarthy,

We are writing to request that the Environmental Protection Agency (EPA) provide a 60 day extension of the comment period for the "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Generating Units." While we appreciate EPA granting an initial 120 day comment period, the complexity and magnitude of the proposed rule necessitates an extension. This extension is critical to ensure that state regulatory agencies and other stakeholders have adequate time to fully analyze and comment on the proposal. It is also important to note that the challenge is not only one of commenting on the complexity and sweeping scope of the rule, but also providing an opportunity to digest more than 600 supporting documents released by EPA in support of this proposal.

The proposed rule regulates or affects the generation, transmission, and use of electricity in every corner of this country. States and stakeholders must have time to fully analyze and assess the sweeping impacts that the proposal will have on our nation's energy system, including dispatch of generation and end-use energy efficiency. In light of the broad energy impacts of the proposed rule, state environmental agencies must coordinate their comments across multiple state agencies and stakeholders, including public utility commissions, regional transmission organizations, and transmission and reliability experts, just to name a few. The proposed rule requires a thorough evaluation of intra- and inter-state, regional, and in some cases international energy generation and transmission so that states and utilities can provide the most detailed assessments on how to meet the targets while maintaining reliability in the grid. This level of coordination to comment on an EPA rule is unprecedented, extraordinary, and extremely time consuming.

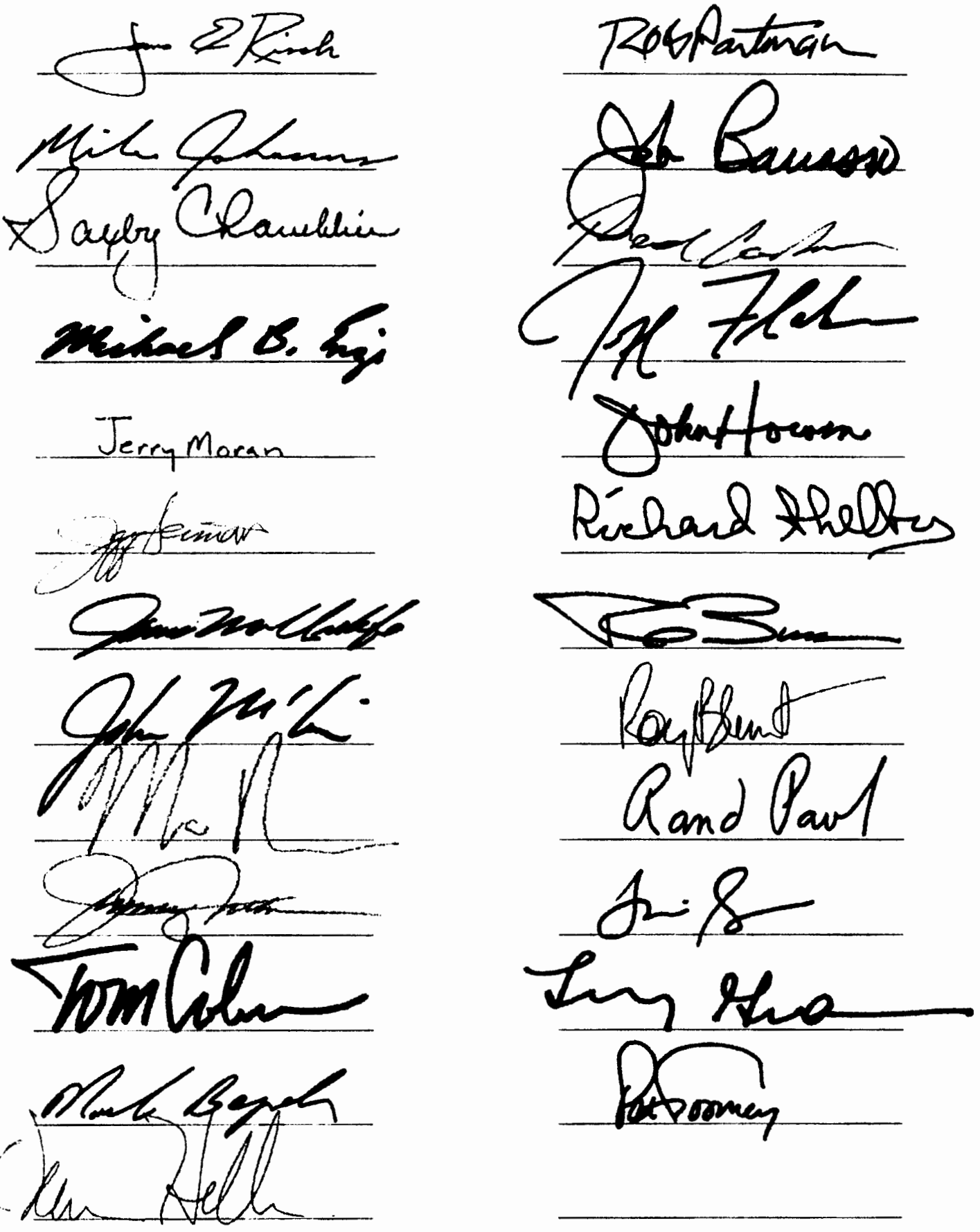
It is also important to note that the proposed rule imposes a heavy burden on the states during the rulemaking process. If the states want to adjust their statewide emission rate target assigned to them by EPA, they must provide their supporting documentation for the adjustment during the comment period. The EPA proposal provides no mechanism for adjusting the state emission rate targets once they are adopted based on the four building blocks. So the states need enough time to digest the rule, fully understand it, and then collect the data and justification on why their specific target may need to be adjusted, and why the assumptions of the building blocks may not apply to their states. This cannot be adequately accomplished in only 120 days.

Thank you for your consideration of this request.

Sincerely,

Bob Dicker

Heidi Heitkamp



AL 14-000-9331

Congress of the United States
Washington, DC 20510

May 8, 2014

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator McCarthy,

As members of the Senate and Congressional Western Caucuses, we are contacting you regarding our opposition to the Environmental Protection Agency's (EPA) efforts to significantly expand federal regulatory authority under the Clean Water Act (CWA).

We have reviewed the proposed rule that you signed on March 25th and have concluded that the rule provides essentially no limit to CWA jurisdiction. This is despite the Supreme Court consistently recognizing that Congress limited the authority of the EPA and the Army Corps of Engineers under the CWA.

There has been strong opposition to EPA's approach due to the devastating economic impacts that a federal takeover of state waters would have. Additional and substantial regulatory costs associated with changes in jurisdiction and increased permitting requirements will result in bureaucratic barriers to economic growth, negatively impacting farms, small businesses, commercial development, road construction and energy production, to name a few.

The threat of ruinous penalties for alleged noncompliance with the CWA is also likely to become more common given the proposed rule's expansive approach. For example, the EPA's disputed classification of a small, local creek as a "water of the United States" could cost as much as $187,500 per day in civil penalties for Wyoming resident Andrew Johnson. Similar uncertainty established under the proposed rule will ensure that expanding federal control over intrastate waters will substantially interfere with the ability of individual landowners to use their property.

We share the concerns expressed by the Western Governors Association regarding the lack of meaningful state consultation in crafting this rule. The Western Governors stated in a letter to you on March 25th that they –

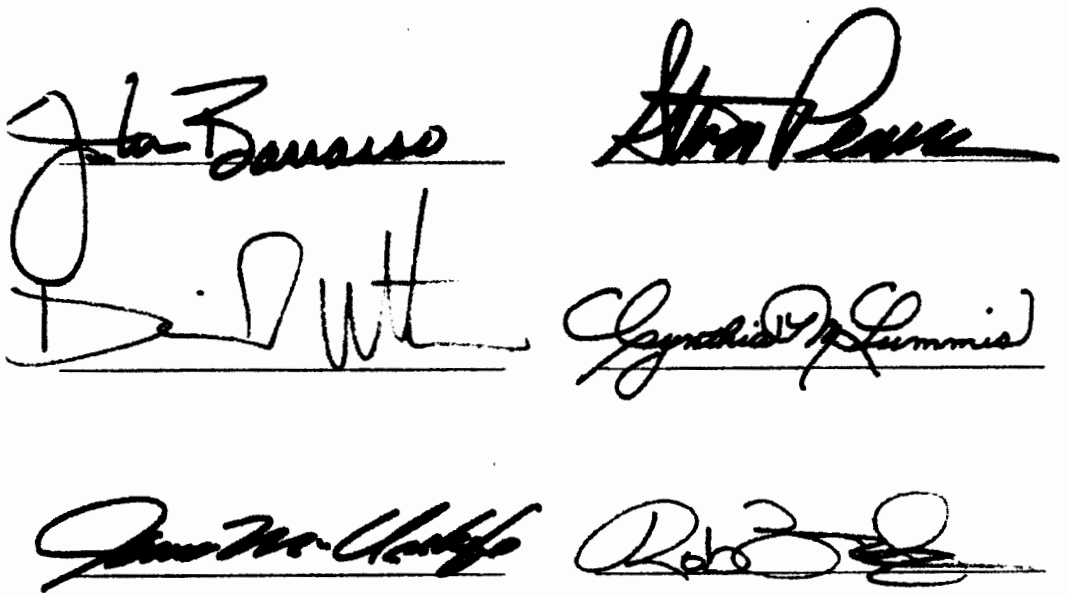
> *"are concerned that this rulemaking was developed without sufficient consultation with the states and that the rulemaking could impinge upon state authority in water management."*

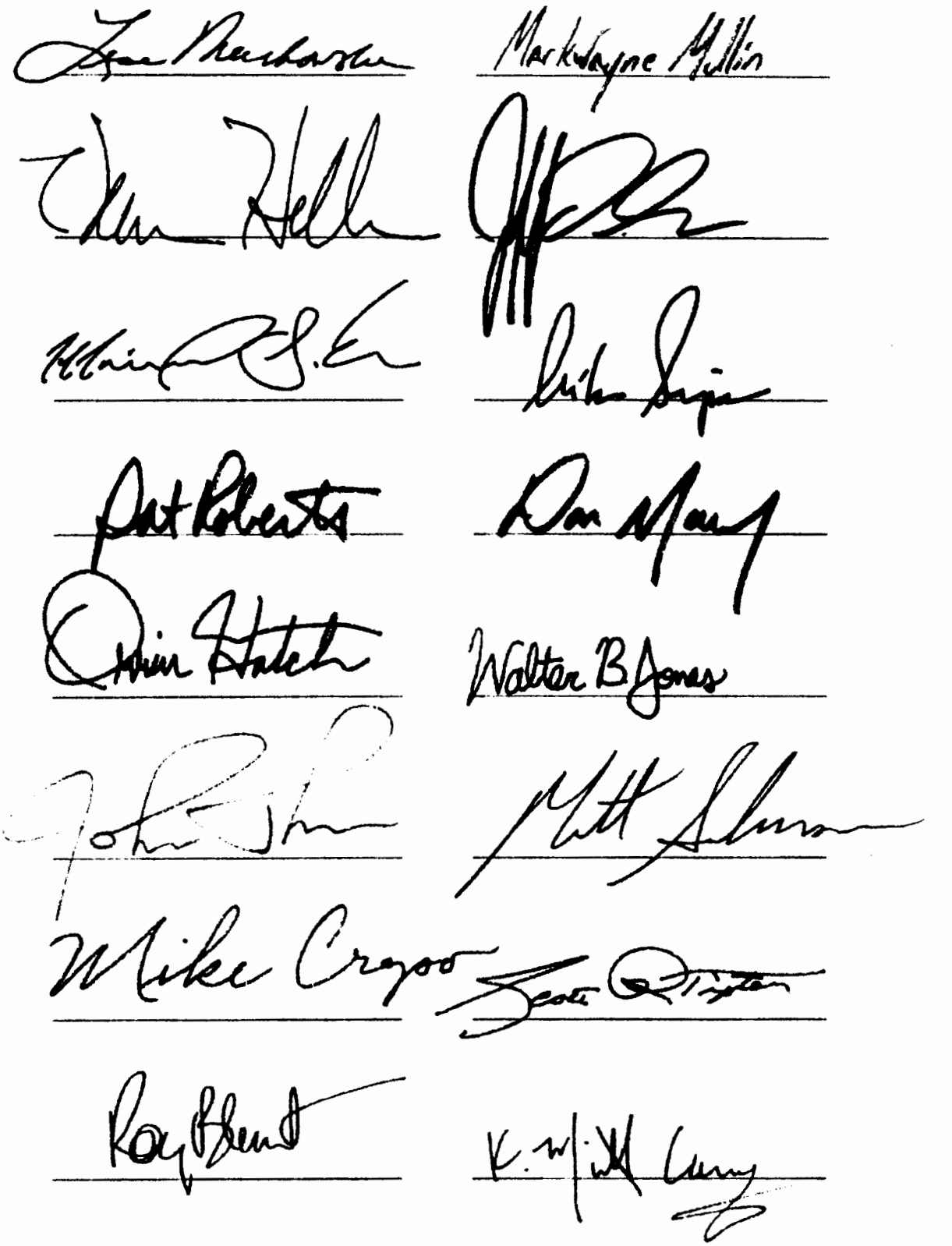
We fail to understand why the EPA has not adequately consulted our Governors about a rule that has such a significant impact on the economy of our states. For example, rural states in the West have sizeable ranching and farming operations that will be seriously impacted by this rule. Despite the claim that the Army Corps will exempt 53 farming practices as established by the Natural Resource Conservation Service, the list of 53 does not cover all existing agricultural practices. There are a number of farming and ranching practices, such as the application of pesticides, that are not covered on this list that occur every day in the West without penalty. Under this new proposed rule, it appears those farmers and ranchers will need to get a permit or be penalized if they continue to use those non-covered practices in new federal waters.

Congress has demonstrated strong opposition to past efforts to have the federal government control all wet areas of the states. During the recent consideration of the Water Resources Development Act (WRDA), a bipartisan group of Senators voted 52 to 44 to reject the EPA's CWA Jurisdiction Guidance, which would have also resulted in effectively unlimited jurisdiction over intrastate water bodies. Efforts to pass legislation to have the federal government control all non-navigable waters have also failed in past Congresses.

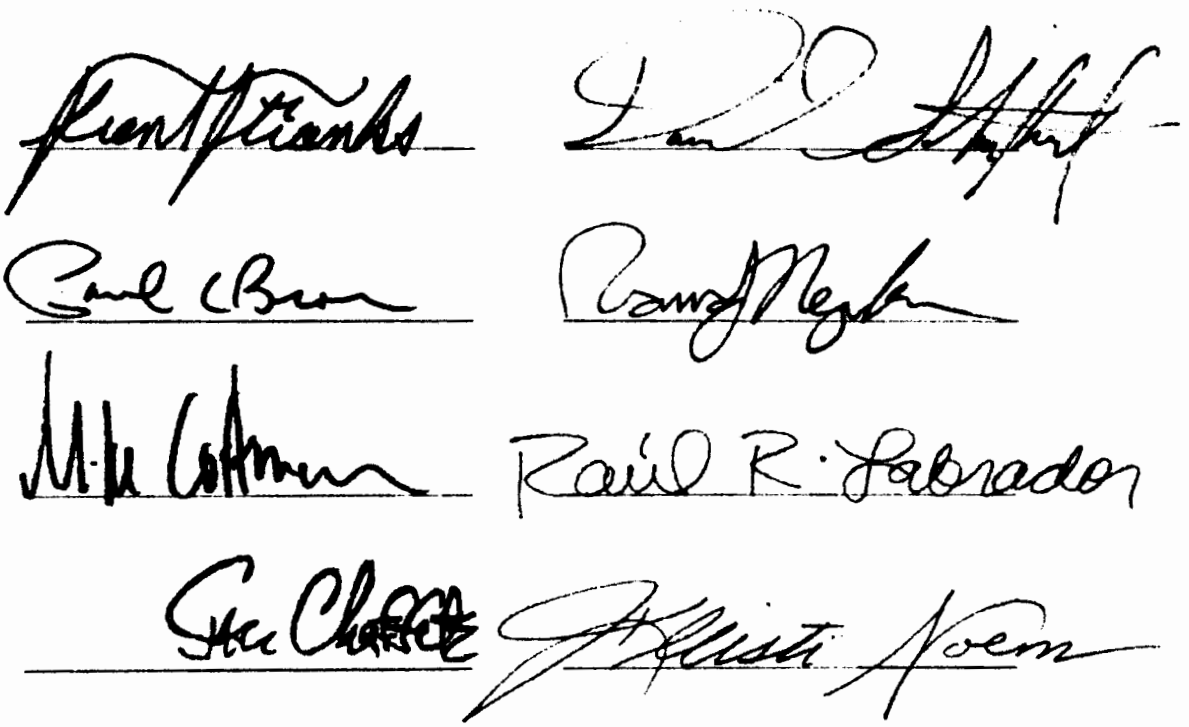
We urge you to change course by committing to operating under the limits established by Congress, recognizing the states' primary role in regulating and protecting their streams, ponds, wetlands and other bodies of water. We also again ask that you consider the economic impacts of your policies knowing that your actions will have serious impacts on struggling families, seniors, low-income households and small business owners.

Sincerely,






Jerry Moran



Letter Signers:

In addition to Senator Barrasso, Rep. Pearce and Rep. Lummis, the attached letter was signed by Senators David Vitter (R-LA), Jim Inhofe (R-OK), Lisa Murkowski (R-AK), Dean Heller (R-NV), Mike Lee (R-UT), Pat Roberts (R-KS), Orrin Hatch (R-UT), John Thune (R-SD), Mike Crapo (R-ID), Roy Blunt (R-AR), Jerry Moran (R-KS), Deb Fischer (R-NE), John Cornyn (R-TX), John Hoeven (R-ND), Mike Johanns (R-NE), James Risch (R-ID) and Mike Enzi (R-WY) and Representatives Rob Bishop (UT-01), Markwayne Mullin (OK-01), Jeff Denham (CA-10), Mike Simpson (ID-02), Don Young (AK-AL), Walter Jones (NC-03), Matt Salmon (AZ-05), Scott Tipton (CO-03), Mike Conaway (TX-11), Mark Amadei (NV-02), Cory Gardner (CO-04), Jeff Duncan (SC-03), Chris Stewart (UT-02), Paul Gosar (AZ-04), Tom McClintock (CA-04), Kevin Cramer (ND-AL), Devin Nunes (CA-22), David Schweikert (AZ-06), Randy Neugebaurer (TX-19), Raul Labrador (ID-01), Kristi Noem (SD-AL), Doug Lamborn (CO-05), Trent Franks (AZ-08), Paul Broun (GA-10), Mike Coffman (CO-06), Jason Chaffetz (UT-03).

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 2 9 2015

OFFICE OF WATER

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your May 8, 2014, letter to the U.S. Environmental Protection Agency regarding the U.S. Department of the Army's and the EPA's proposed rulemaking to define the scope of the Clean Water Act consistent with science and the decisions of the Supreme Court. The agencies' rulemaking process is among the most important actions we have underway to ensure reliable sources of clean water on which Americans depend for public health, a growing economy, jobs, and a healthy environment.

It is important to emphasize that the proposed rule would reduce the scope of waters protected under the Clean Water Act compared to waters covered during the 1970s, 80s, and 90s to conform to decisions of the Supreme Court. The rule would limit Clean Water Act jurisdiction only to those types of waters that have a significant effect on downstream traditional navigable waters - not just any hydrologic connection. It would improve efficiency, clarity, and predictability for all landowners, including the nation's farmers, as well as permit applicants, while maintaining all current exemptions and protecting public health, water quality, and the environment. It uses the law and sound, peer-reviewed science as its cornerstones.

The agencies understand the importance of working effectively with the public as the rulemaking process moves forward. In order to afford the public greater opportunity to benefit from the EPA Science Advisory Board's reports on the proposed jurisdictional rule and on the EPA's draft scientific report, "Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence," and to respond to requests from the public for additional time to provide comments on the proposed rule, the agencies extended the public comment period on the proposed rule to November 14, 2014.

During the public comment period, the agencies met with stakeholders across the country to facilitate their input on the proposed rule. The agencies talked with a broad range of interested groups including farmers, businesses, states and local governments, water users, energy companies, coal and mineral mining groups, and conservation interests. The EPA conducted a second small business roundtable to facilitate input from the small business community, which featured more than 20 participants that included small government jurisdictions as well as construction and development, agricultural, and mining interests. The agencies also engaged in extensive outreach to our state partners – including Western states – since the proposed rule was published. We agree that states play a crucial role in implementing the Clean Water Act, and that is why we were in close communication with stakeholders such as the Western Governors' Association, Western States Water Council, Association of Clean Water Administrators, and Environmental Council of the States. We appreciated the dialogue with Western

states during the public comment period, which enabled us to share information about the proposed rule and to ensure that the critical interests of states are reflected in our rulemaking process.

Since releasing the proposal in March, the EPA and the Corps conducted unprecedented outreach to a wide range of stakeholders, holding nearly 400 meetings all across the country to offer information, listen to concerns, and answer questions. The agencies completed a review by the Science Advisory Board on the scientific basis of the proposed rule and will ensure the final rule effectively reflects its technical recommendations. These actions represent the agencies' commitment to provide a transparent and effective opportunity for all interested Americans to participate in the rulemaking process.

Finally, your letter also raises questions regarding the agencies' interpretive rule regarding the applicability of Clean Water Act Section 404(f)(1)(A). On December 16, 2014, President Obama signed H.R. 83, the Consolidated and Further Continuing Appropriations Act, 2015, which instructs the EPA and the Department of the Army to withdraw the agencies' interpretive rule. The EPA and the Army will follow the statutory directive and withdraw the interpretive rule, a rule intended to encourage conservation and provide farmers with a simpler way to take advantage of existing exemptions from Clean Water Act dredge and fill permits. Withdrawal of the interpretive rule does not impact the agencies' work to finalize their rulemaking to define the scope of the Clean Water Act.

America thrives on clean water. Clean water is vital for the success of the nation's businesses, agriculture, energy development, and the health of our communities. We are eager to define the scope of the Clean Water Act so that it achieves the goals of protecting clean water and public health, and promoting jobs and the economy.

Thank you again for your letter. We look forward to working with Congress as our Clean Water Act rulemaking effort moves forward. Please contact me if you have additional questions on this issue, or your staff may contact Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at borum.denis@epa.gov or (202) 564-4836.

Sincerely,

Kenneth J. Kopocis

Kenneth J. Kopocis
Deputy Assistant Administrator

AL 11-000-1357

United States Senate

WASHINGTON, DC 20510

January 27th, 2010

The Honorable Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

As newly elected Senators, we look forward to working with you in the 112th Congress. At this time, however, we are writing to echo concerns recently expressed by a bi-partisan group of 49 Senators during the 111th Congress on EPA's proposed Maximum Achievable Control Technology (MACT) rules, which affects boilers and process heaters.

We are concerned that even recently installed boilers cannot meet the requirements set forth in the proposed rule. The rule appears to be based on a "super" boiler that does not currently exist. As a result, these proposed boiler MACT rules are expected to cost billions of dollars and would put a tremendous number of jobs at risk. The manufacturing industry has been hit particularly hard by our struggling economy and while this proposal would have an effect on jobs from many sectors, manufacturers would be affected the most. In addition, the proposal's biomass standards significantly undercut the potential to use this important source of renewable energy and are at odds with the popular promotion of renewable energy sources.

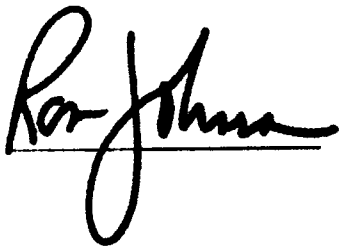
EPA is tasked with protecting and enhancing our nation's air quality under the Clean Air Act, and we ask you to consider revisions to the proposed rules that will not only protect the environment, but also preserve jobs. Congress gave EPA latitude in certain areas to balance the economic impact with the health effects of such rules. We believe EPA should consider using this health-based standard to adjust their approach to Boiler MACT, which is specifically authorized by section 112(d)(4) of the Clean Air Act.

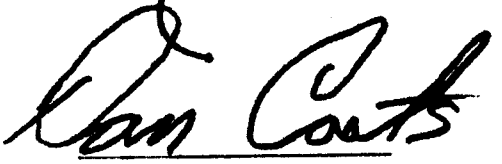
We are committed to protecting the jobs of hardworking Americans that recently elected us and we believe EPA should revise the rule to enact emissions standards that are actually achievable by real-world boilers. We support EPA's efforts to address health threats from air emissions and we are hopeful that these regulations can be crafted in a way that will benefit the environment and not harm existing jobs.

Sincere Regards,

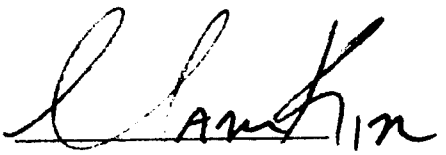
Roy Blunt

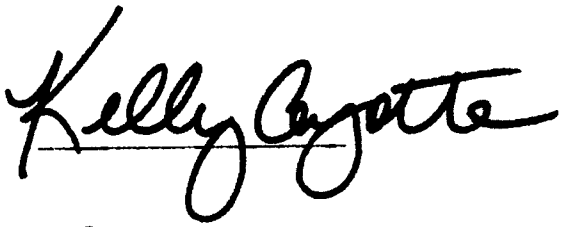
John Boozman

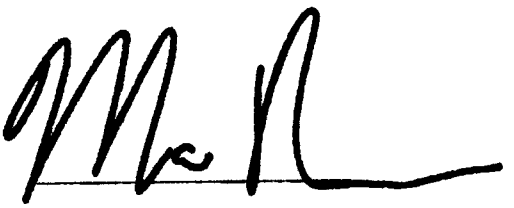


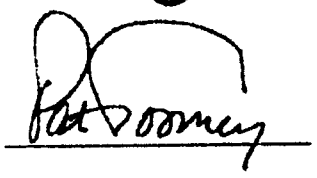


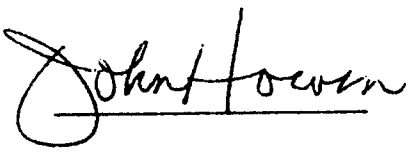
Jerry Moran

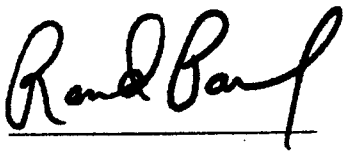












UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB - 2 2011

THE ADMINISTRATOR

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your January 27 letter regarding the proposed standards for controlling hazardous air pollutant emissions from industrial, commercial, and institutional boilers and process heaters ("Boiler NESHAP"). You raise important concerns, and I take them seriously.

At the outset, I should note that the rulemaking at issue is not discretionary. In Section 112 of the Clean Air Act, Congress directed EPA to establish these standards. EPA issued its proposal after many years of delay, and in order to meet a deadline set by the U.S. District Court for the District of Columbia. EPA is working diligently to issue these standards by February 21, 2011, to meet the Court's most recent deadline.

I appreciate the support you expressed for EPA's efforts to address health threats from air pollutant emissions. Many of the facilities in question are located in close proximity to neighborhoods where large numbers of people live and large numbers of children go to school. EPA estimates that the new standards will cut the facilities' toxic mercury emissions in half and, in the process, reduce their annual emissions of harmful sulfur dioxide and particulate matter by more than 300,000 tons and more than 30,000 tons, respectively.

Those reductions in air pollution will, each year, avoid an estimated 2,000 to 5,100 premature deaths, 1,400 cases of chronic bronchitis, 35,000 cases of aggravated asthma, and 1.6 million occurrences of acute respiratory symptoms. EPA estimates that Americans will receive five to twelve dollars in health benefits for every dollar spent to meet the standards.

You also express concern about the ability of sources to meet the proposed standards. EPA's final standards will be based on a very careful review of the large volume of relevant data we received, and thus will be more reflective of operational reality than the proposed standards would have been. Section 112 of the Clean Air Act directs EPA to calibrate the standards for each category or subcategory of facility to the emissions control that well-performing existing facilities in that category or subcategory are currently achieving. The same section of the statute identifies the types of information that are necessary to justify the establishment of any separate subcategory. In an effort to establish separate subcategories wherever appropriate, and to calculate accurately the standards for each subcategory, EPA asked the affected companies and institutions for technical data about their facilities long before the court-ordered deadline for

publishing a proposal. As is often the case in Section 112 rulemaking efforts, however, EPA did not receive much data. While the agency was not left entirely lacking in relevant information, the limited response from affected businesses and institutions did make it difficult for EPA to delineate subcategories and calculate standards that fully reflected operational reality. The agency nevertheless was legally required to publish proposed standards based on the information it had at the time.

Fortunately, a number of potentially affected businesses and institutions responded to EPA's published proposal by giving the agency relevant data that it had not possessed at the time of the proposal. The agency will make exhaustive use of all of the relevant data received during the period for public comment. EPA has learned things that it did not know before about the particulars of affected sectors and facilities. As a result, the standards will be significantly different than what we proposed in April 2010, which is how the rulemaking process is supposed to work.

EPA believes that a number of the changes EPA is making to the standards will deserve further public review and comment. We expect to solicit further comment through a reconsideration of the standards we will issue in February. Through the reconsideration process, EPA intends to ensure that the standards will be practical to implement and will protect the health of all Americans. Existing sources are not required to comply with the standards until 3 years after they become effective, and parties may request that EPA delay the effective date as part of the reconsideration process.

I would like to address your concern that the rulemakings at issue might threaten jobs. In recent months, two industry trade associations issued two separate presentations, each claiming that the rules would cost the U.S. economy jobs. The presentations differ significantly from each other when it comes to the number of jobs that allegedly would be lost. Moreover, the associations' methods for reaching their projections are in several respects opaque and in others clearly flawed. For example, they neglect to count the workers who will be needed to operate and maintain pollution control equipment and to implement work practices that reduce emissions.

On that point, the American Boiler Manufacturers Association ("ABMA") writes the following in its comments on the proposed Boiler MACT Rule:

> If properly designed to reflect the broad range of boiler designs and operational conditions, as well as manufacturers' emission guarantee levels, the Boiler MACT will stimulate the creation of jobs in the boiler and boiler-related equipment industry. To the extent that EPA develops a Boiler MACT rulemaking that is achievable in practice for boiler owners and operators, the proposal will create solid, well-paid, professional, skilled and unskilled manufacturing jobs attendant to the upgrade, optimization and replacement of existing boilers around the United States. In addition, service jobs associated with the installation and maintenance of these systems, as well as service jobs associated with required tune-ups and energy assessments will be created. These jobs will be significant

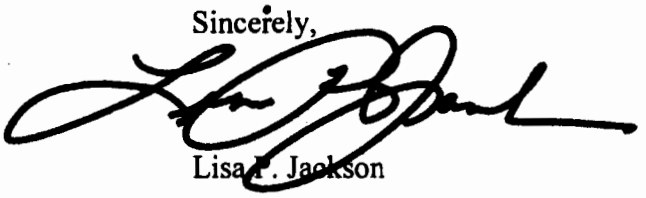
contributions to our local, state and national economies – contributions that must not be overlooked or minimized.

Additionally, you suggest that EPA set a health-based standard, as opposed to a purely technology-based standard. While many businesses are pleased that EPA solicited comment on setting such a standard, pursuant to Clean Air Act Section 112(d)(4), for certain hazardous air pollutants such as hydrogen chloride, those same businesses believe that EPA should have identified the establishment of a health-based standard as the agency's preferred outcome. The discretionary establishment of a health-based standard would need to be based on an adequate factual record justifying it. EPA did not identify a health-based standard as a preferred outcome in the proposal, because the agency did not possess at the time of the proposal a factual record that could justify it.

Finally, you express concern about the proposal's effect on the use of biomass as a source of renewable energy. We recognize that businesses that burn biomass in their boilers and process heaters or are worried that the limited information underlying EPA's proposed subcategories and standards might cause businesses that currently burn renewable biomass to convert to other fuels. Please know that EPA is paying particular attention to the subject of biomass-fired boilers and process heaters as the agency works to develop final standards.

Again, thank you for your letter. If you have additional questions, please do not hesitate to contact me, or to have your staff contact Josh Lewis in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-2095.

Sincerely,



Lisa P. Jackson

AL 11-000-2630

United States Senate

WASHINGTON, DC 20510

February 15, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

As the 112th United States Congress commences, we write to share with you our continuing concern with the potential regulation of farm and rural dusts through your review of the National Ambient Air Quality Standards (NAAQS) for coarse particulate matter (PM10), or "dust." Proposals to lower the standard may not be significantly burdensome in urban areas, but will likely have significant effects on businesses and families in rural areas, many of which have a tough time meeting current standards.

Naturally occurring dust is a fact of life in rural America, and the creation of dust is unavoidable for the agriculture industry. Indeed, with the need to further increase food production to meet world food demands, regulations that will stifle the U.S. agriculture industry could result in the loss of productivity, an increase in food prices, and further stress our nation's rural economy.

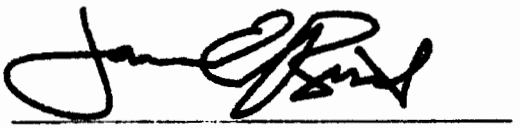
Tilling soil, even through reduced tillage practices, often creates dust as farmers work to seed our nation's roughly 400 million acres of cropland. Likewise, harvesting crops with various farm equipment and preparing them for storage also creates dust.

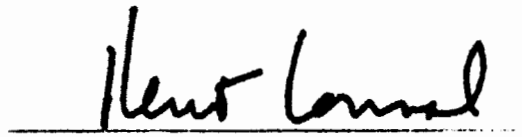
Due to financial and other considerations, many roads in rural America are not paved, and dust is created when they are traversed by cars, trucks, tractors, and other vehicles. To potentially require local and county governments to pave or treat these roads to prevent dust creation could be tremendously burdensome for already cash-strapped budgets.

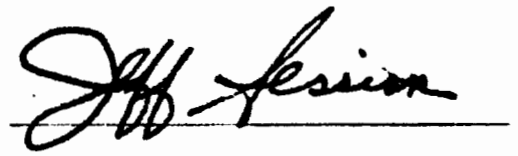
While we strongly support efforts to safeguard the wellbeing of Americans, most Americans would agree that common sense dictates that the federal government should not regulate dust creation in farm fields and on rural roads. Additionally, the scientific and technical evidence seems to agree. Given the ubiquitous nature of dust in agricultural settings and many rural environments, and the near impossible task of mitigating dust in most settings, we are hopeful that the EPA will give special consideration to the realities of farm and rural environments, including retaining the current standard.

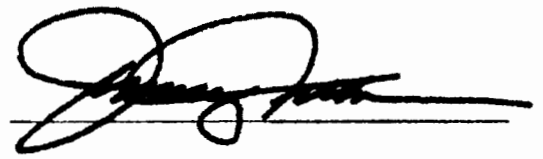
Thank you for your consideration of this important matter.

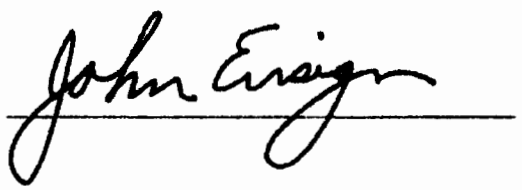
Sincerely,

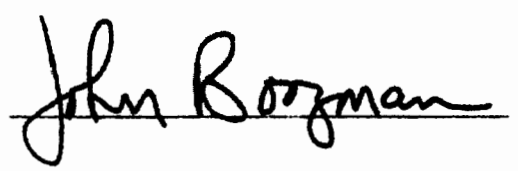


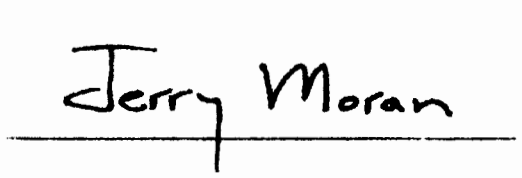


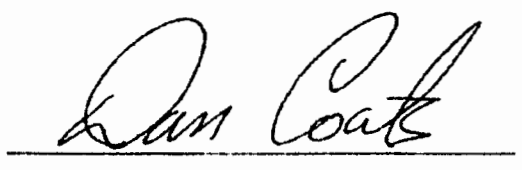


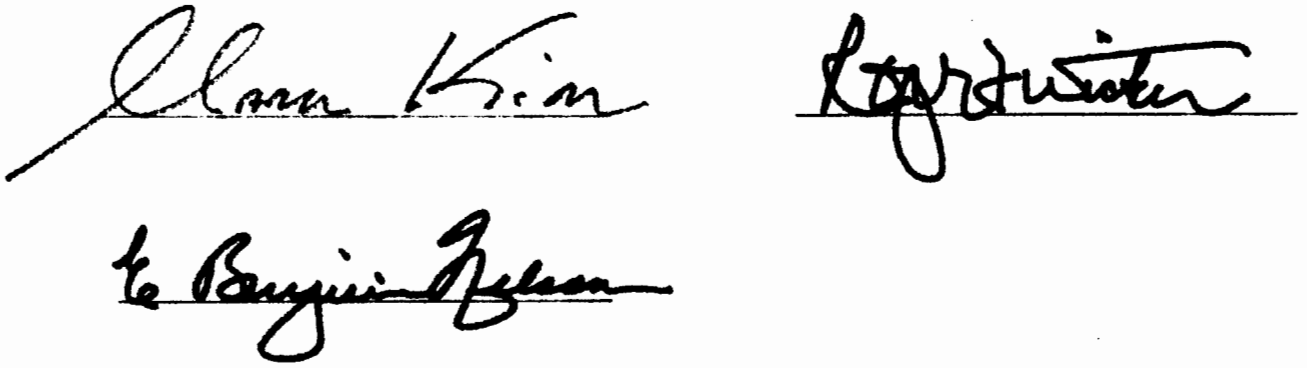












UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 14 2011

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of February 15, 2011, co-signed by 32 of your colleagues, expressing your concerns over the ongoing review of the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM). The Administrator asked that I respond to your letter.

I appreciate the importance of NAAQS decisions to state and local governments, in particular to areas with agricultural communities, and I respect your perspectives and opinions. I also recognize the work that states have undertaken to improve air quality across the country. The NAAQS are set to protect public health from outdoor air pollution, and are not focused on any specific category of sources or any particular activity (including activities related to agriculture or rural roads). The NAAQS are based on consideration of the scientific evidence and technical information regarding health and welfare effects of the pollutants for which they are set.

No final decisions have been made on revising the PM NAAQS. In fact, we have not yet released a formal proposal. Currently, we continue to develop options, including the option of retaining the current 24-hour coarse PM standard. To facilitate a better understanding of the potential impacts of PM NAAQS standards on agricultural and rural communities, EPA recently held six roundtable discussions around the country. This is all part of the open and transparent rulemaking process that provides Americans with many opportunities to offer their comments and thoughts. Your comments will be fully considered as we proceed with our deliberations.

Under the Clean Air Act, decisions regarding the NAAQS must be based solely on an evaluation of the scientific evidence as it pertains to health and environmental effects. Thus, the Agency is prohibited from considering costs in setting the NAAQS. But cost can be - and is - considered in developing the control strategies to meet the standards (i.e., during the implementation phase). Furthermore, I want to assure you that EPA does appreciate the importance of the decisions on the PM NAAQS to agricultural communities. We remain committed to common sense approaches to improving air quality across the country without placing undue burden on agricultural and rural communities.

Again, the Administrator and I thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

Gina McCarthy
Assistant Administrator

AL 11-000-5905

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

April 15, 2011

Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express our concerns about additional regulatory actions that the Environmental Protection Agency is planning to take regarding the "Lead: Renovation, Repair and Painting Rule" (LRRP).

Following the finalization of EPA's LRRP Rule, several lawsuits were filed and on August 24, 2009, EPA entered into a settlement agreement with some of the petitioners. In the settlement agreement, EPA agreed to commence rulemaking to address renovations in public and commercial buildings to the extent those renovations create lead-based paint hazards. As a result of this agreement, by December 15, 2011, EPA must issue a proposal to regulate renovations on the exteriors of commercial buildings and public buildings built before 1978. EPA must take final action on that proposal and propose regulations for the interior of buildings by July 15, 2013.

The Residential Lead-Based Paint Hazard Reduction Act of 1992 gave EPA authority in the Toxic Substances Control Act (TSCA) to "apply the regulations to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards." We are concerned that EPA is assuming that the majority of commercial buildings create a lead hazard without having the data to support it. In a 2010 report, EPA recognized the "scarcity of data related to dust exposures in public and commercial buildings and other non-residential settings," and that an extensive literature search "revealed relatively little information concerning typical levels of floor and window sill dust lead in public and commercial buildings." Yet EPA is moving forward at a very rapid pace to issue proposed regulations.

Additionally, under section 402(c)(2), EPA has an obligation to study "the extent to which persons engaged in various types of renovation and remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings are exposed to lead in the conduct of such activities or disturb lead and create a lead-based paint hazard on a regular or

occasional basis." Section 402(c)(3) says that EPA "shall utilize the results of the study under paragraph (2)" in determining what to regulate.

Relying on the dust studies done in residential settings and schools is not sufficient for promulgating rules on all existing commercial buildings. If EPA does not currently have sufficient data on the lead hazards in commercial buildings, it must study those lead hazards and gather that data prior to issuing regulations.

We are also concerned that the EPA seems to believe it can easily apply what it has done under residential LRRP to commercial buildings. Whereas a home owner or child care facility may only renovate a bathroom or kitchen once every 10 years, some commercial buildings are renovated continuously. Tenants move in and out of office buildings, requiring outfitting to meet their individual needs, mall shops move and change frequently, and many commercial and public buildings undergo upgrades to make them more energy efficient. Prior to issuing regulations, EPA must have a robust understanding of what renovation activities in public and commercial buildings entail, the frequency of these activities, and the relationship of these activities to ambient lead in the building. Without understanding what activities are likely to affect ambient lead levels in the building, EPA cannot write regulations and guidance that will actually create meaningful improvements to public health.

At a time when the nation's building industry has been in a severe recession and faces an unemployment rate of nearly 21 percent, we need to make sure that the rules EPA is promulgating will not present additional barriers to economic recovery. We appreciate your attention to this letter.

Sincerely,

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 1 1 2011

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of April 15, 2011, to the U.S. Environmental Protection Agency (EPA) expressing your concerns about EPA's plans to regulate the renovation of public and commercial buildings.

The Renovation, Repair, and Painting (RRP) rule that regulates the renovation of target housing (homes built before 1978) was signed on April 22, 2008. Shortly after this final rule was promulgated, several lawsuits were filed challenging the rule. These lawsuits (brought by industry representatives as well as environmental and children's health advocacy groups) were consolidated in the Circuit Court of Appeals for the District of Columbia Circuit. On August 26, 2009, EPA signed a settlement agreement with the environmental and children's health advocacy groups and shortly thereafter the industry representatives voluntarily dismissed their challenge to the rule.

The settlement agreement required EPA to fulfill the obligations Congress placed on the Agency in the Residential Lead-Based Paint Hazard Reduction Act of 1992. The Act required EPA to promulgate regulations addressing renovations activities in "public buildings constructed before 1978, and commercial buildings" that create lead-based paint hazards. With respect to renovations on the exterior of such buildings, the settlement agreement, as amended, provides that EPA must issue a proposal by June 15, 2012, and take final action on the proposal by February 15, 2014. In addition, EPA also agreed to determine whether hazards are created by renovations on the interiors of such buildings. For those interior renovations that create lead-based paint hazards, EPA agreed to issue a proposal by July 1, 2013, and take final action on the proposal no later than eighteen months after that.

Accordingly, EPA is currently developing a proposal to address exterior renovation jobs on public buildings constructed before 1978 and commercial buildings that, by virtue of their close proximity to residences and child-occupied facilities (*i.e.*, buildings frequented by children under the age of six), create lead-based paint hazards.

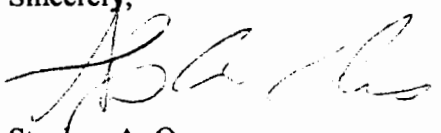
EPA agrees that it is necessary to have a robust understanding of new action in public and commercial buildings. Consistent with Section 402(c)(2) of TSCA, EPA has conducted extensive studies on renovation activities (http://www.epa.gov/lead/pubs/leadtpbf.htm#Renovation) during the development of the RRP rule. For example, EPA has conducted a study to evaluate lead dust generated in actual renovation situations, including hazards created by the use of various renovation and paint removal practices on different building components, known as "EPA's Dust Study" (USEPA. Characterization of

Dust Lead Levels After Renovation, Repair, And Painting Activities. November 13, 2007). EPA is also evaluating other data on exterior renovations. These studies provide a comprehensive picture of lead dust generation by renovation activities when lead-based paint is disturbed—regardless of the building type. EPA will use these studies, along with any other suitable studies identified as the result of a search of scientific literature to identify lead paint hazards generated by renovation activities on public and commercial buildings. EPA will provide the analysis of the hazards created during the renovation of public and commercial buildings in the proposed rule and will provide opportunity for public comment at that time. EPA is currently gathering data on the types and frequency of renovation activities commonly undertaken in public and commercial buildings.

EPA is also organizing a Small Business Advocacy Review (SBAR) panel to provide input that will be used by EPA during the development of the proposed rule. SBAR panels are comprised of representatives from the agency conducting the rulemaking (EPA in this case), the Small Business Administration, and the Office of Management and Budget. The Panel will consult with small entities on cost and economic implications of the future regulations addressing exterior renovation jobs on public buildings constructed before 1978 and commercial buildings. The SBAR panel will also seek information from participants on the types of activities typically undertaken during the renovation of public and commercial buildings and alternative regulatory requirements. As part of the rulemaking process, EPA also assesses the costs and benefits of any regulation it is required by Congress to implement. EPA is still gathering information to inform the development of an assessment of costs and benefits of this future proposed rule. Economic analyses for rulemaking efforts are performed for several statutes and executive orders and will be completed during the development of the proposed and final rule.

Again, thank you for your letter and your support for the goal of preventing dangerous lead exposures. If you have additional questions or concerns, please contact me or your staff may contact Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,



Stephen A. Owens
Assistant Administrator

AL11-000-9233

THE WHITE HOUSE OFFICE
REFERRAL

May 31, 2011

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION COMMENTS:

ACTION REQUESTED: APPROPRIATE ACTION

REFERRAL COMMENTS:

DESCRIPTION OF INCOMING:

ID:	1056373
MEDIA:	EMAIL
DOCUMENT DATE:	May 26, 2011
TO:	PRESIDENT OBAMA
FROM:	THE HONORABLE KENT CONRAD UNITED STATES SENATE WASHINGTON, DC 20510
SUBJECT:	WRITES TO ASK THE ADMINISTRATION TO RAPIDLY FINALIZE A RULE REGULATING COAL COMBUSTION RESIDUES (CCRs) UNDER SUBTITLE D THE NON-HAZARDOUS SOLID WASTE PROGRAM OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

COMMENTS: _____

_____

_____

PROMPT ACTION IS ESSENTIAL – IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 85, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500
FAX A COPY OF REPONSE TO: (202) 456-5861

THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: May 31, 2011 **CASE ID:** 1056373

NAME OF CORRESPONDENT: THE HONORABLE KENT CONRAD

SUBJECT: WRITES TO ASK THE ADMINISTRATION TO RAPIDLY FINALIZE A RULE REGULATING COAL COMBUSTION RESIDUES (CCRs) UNDER SUBTITLE D THE NON-HAZARDOUS SOLID WASTE PROGRAM OF THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	[redacted]	[redacted]	[redacted]	[redacted] DATE COMPLETED
LEGISLATIVE AFFAIRS	ROB NABORS	ORG	05/31/2011		
ACTION COMMENTS:					
ENVIRONMENTAL PROTECTION AGENCY		A	05/31/2011		
ACTION COMMENTS:					
ACTION COMMENTS:					
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COMMENTS: 43 ADDL SIGNEES

MEDIA TYPE: EMAIL **USER CODE:**

ACTION CODES	DISPOSITION		
A = APPROPRIATE ACTION B = RESEARCH AND REPORT BACK D = DRAFT RESPONSE I = INFO COPY/NO ACT NECESSARY R = DIRECT REPLY W/ COPY ORG = ORIGINATING OFFICE	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
	INITIALS OF SIGNER (W.H. STAFF) NRN = NO RESPONSE NEEDED OTBE = OVERTAKEN BY EVENTS	A = ANSWERED OR ACKNOWLEDGED C = CLOSED X = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 85, EEOB.

1056373

United States Senate

WASHINGTON, DC 20510

May 26, 2011

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Obama:

In November, the public comment period concluded on the Environmental Protection Agency's (EPA's) proposed rulemaking for the regulation of coal combustion residues (CCRs). We write to ask the Administration to rapidly finalize a rule regulating CCRs under subtitle D, the non-hazardous solid waste program of the Resource Conservation and Recovery Act (RCRA).

The release of CCRs from the Tennessee Valley Authority impoundment in December 2008 properly caused the EPA to consider whether CCR impoundments and landfills should meet more stringent standards. All operators should meet appropriate standards, and those who fail to do so should be held responsible. We believe regulation of CCRs under subtitle D will ensure proper design and operations standards in all states where CCRs are disposed.

A swift finalization of regulations under subtitle D offers the best solution for the environment and for the economy. The environmental advantages of the beneficial use of CCRs in products such as concrete and road base are well-established. For example, a study released by the University of Wisconsin and the Electric Power Research Institute in November 2010 found that the beneficial use of CCRs reduced annual greenhouse gas emissions by an equivalent of 11 million tons of carbon dioxide, annual energy consumption by 162 trillion British thermal units, and annual water usage by 32 billion gallons. These numbers equate to removing 2 million cars from our roads, saving the energy consumed by 1.7 million American homes, and conserving 31 percent of the domestic water used in California.

We are concerned that finalizing a rule regulating CCRs under subtitle C of RCRA rule would permanently damage the beneficial use market. Since the EPA first signaled its possible intention to regulate CCRs under subtitle C, financial institutions have withheld financing for projects using CCRs, and some end-users have balked at using CCRs in their products until the outcome of the EPA's proposed rulemaking is known. Already, beneficial use of CCRs has decreased, and landfill disposal has increased. This result is counterproductive but likely to continue as long as the present regulatory uncertainty persists.

State environmental protection agencies have cautioned the EPA that regulating CCRs under subtitle C will overwhelm existing hazardous waste disposal capacity and strain budget and staff resources. Moreover, the bureaucratic and litigation hurdles involved in a subtitle C rule could lead to long delays before storage sites are upgraded or closed, resulting in slower environmental protection.

In two prior reports to Congress, the EPA concluded that disposed CCRs did not warrant regulation under subtitle C of RCRA. Despite this prior conclusion, the EPA's proposed subtitle C option would regulate CCRs more stringently than any other hazardous waste by applying the subtitle C rules to certain inactive and previously closed CCR units. The EPA has never before interpreted RCRA in this manner in over 30 years of administering the federal hazardous waste rules. The subtitle C approach is not supportable given its multiple adverse consequences and the availability of an alternative, less burdensome regulatory option under RCRA's non-hazardous waste rules that, by the EPA's own admission, will provide an equal degree of protection to public health and the environment.

In conclusion, we request that the Administration finalize a subtitle D regulation as soon as possible. The states and the producers of CCRs have raised concerns that should be corrected in a final subtitle D rule, including ensuring that any subtitle D regulations are integrated with and administered by state programs. Subtitle D regulation will improve the standards for CCR disposal, ensure a viable market for the beneficial use of CCRs, and achieve near-term meaningful environmental protection for disposed CCRs.

Thank you very much for your consideration of this important matter. We look forward to your response and to working with you to address this issue in a manner that is both environmentally and economically sound.

Sincerely,

Kent Conrad
United States Senate

Michael B. Enzi
United States Senate

Joe Manchin III
United States Senate

Johnny Isakson
United States Senate

Jerry Moran
United States Senate

John Boozman
United States Senate

Daniel Coats
United States Senate

Roy Blunt
United States Senate

John Hoeven
United States Senate

Roger F. Wicker
United States Senate

Thad Cochran
United States Senate

Claire McCaskill
United States Senate

Jon Tester
United States Senate

Lisa Murkowski
United States Senate

Orrin G. Hatch
United States Senate

Ben Nelson
United States Senate

John Barrasso
United States Senate

Pat Roberts
United States Senate

John Thune
United States Senate

David Vitter
United States Senate

Mary L. Landrieu
United States Senate

Mark R. Warner
United States Senate

Bob Corker
United States Senate

Mike Lee
United States Senate

Mark L. Pryor
United States Senate

Max Baucus
United States Senate

Richard Burr
United States Senate

Richard G. Lugar
United States Senate

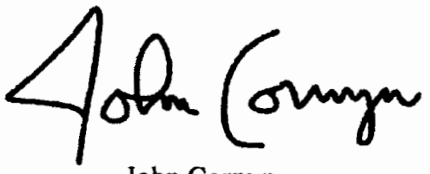
Lindsey Graham
United States Senate

Rob Portman
United States Senate

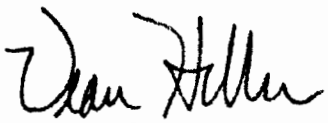
Jim DeMint
United States Senate

Richard C. Shelby
United States Senate

Patrick J. Toomey
United States Senate



John Cornyn
United States Senate

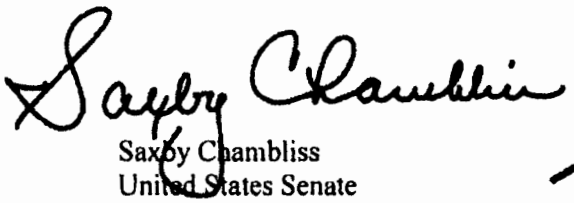


Dean Heller
United States Senate

Lamar Alexander
United States Senate

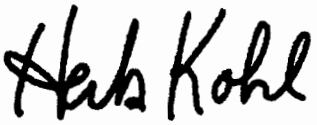
Mark Begich
United States Senate

Chuck Grassley
United States Senate



Saxby Chambliss
United States Senate

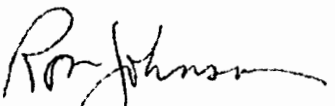
Mark Kirk
United States Senate



Herb Kohl
United States Senate

James E. Risch
United States Senate

John D. Rockefeller IV
United States Senate



Ron Johnson
United States Senate

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 18 2011

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of May 26, 2011, to President Barack Obama in which you asked that the U.S. Environmental Protection Agency (EPA) finalize a rule regulating coal combustion residuals (CCR) under Subtitle D of the Resource Conservation and Recovery Act (RCRA) as soon as possible. I appreciate your comments regarding the CCR rule that the EPA proposed on June 21, 2010.

As you note in your letter, the regulation of CCR intended for disposal is appropriate, and the agency agrees with you that operators should meet appropriate standards, or be held accountable. The agency also shares your belief that the beneficial use of CCR, if conducted in a safe and environmentally protective manner, has many environmental advantages and should be encouraged.

Under the proposal, the EPA would regulate the disposal of CCR for the first time. As you know, the proposal sought public comment on two different approaches under RCRA. One option would treat such wastes as a "special waste" under Subtitle C of the statute, which creates a comprehensive program of federally enforceable requirements for waste management and disposal. The second option, as you indicated in your letter, would be to establish standards for waste management and disposal under the authority of Subtitle D of RCRA. The agency is currently reviewing and evaluating the approximately 450,000 public comments received on the proposal, many of which addressed the specific issues raised in your letter, before deciding on the approach to take in the final rule based on the best available science. The agency will issue a final regulation as expeditiously as possible.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Carolyn Levine, in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-1859.

Sincerely,

Mathy Stanislaus

Mathy Stanislaus
Assistant Administrator

AL 11-000-7462

Congress of the United States
Washington, DC 20515

May 11, 2011

The Honorable Lisa Jackson
Administrator, U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Jackson:

Gas prices have skyrocketed these past few months. According to the Energy Information Administration (EIA), the price per gallon of gasoline has jumped a dollar in the past two months alone. Many have predicted that gas prices could spike even higher by the end of next year. These prices demonstrate the vulnerability of our energy supply to the many factors affecting the price of gasoline in the United States.

EIA stated in a 2002 report that one factor affecting gas price volatility is the increased use of different types of fuels in different localities. The proliferation of these specialty or "boutique" fuels increases the chance that localities using them will experience faster inventory depletion when nationwide gas supplies are low. This makes these localities especially vulnerable to a surge in gas prices. From this, the report concludes that addressing the boutique fuel problem would most likely diminish the frequency and magnitude of price surges.

In the Energy Policy Act (EPACT) of 2005, we took the first important step to address this problem by capping the number of fuels allowed and giving EPA authority to waive fuel specifications in the event of a natural disaster. In 2005, when Hurricane Katrina hit, 20 percent of this nation's refinery capacity was shut down. The waiver authority proved integral to the response to this massive supply disruption.

Temporary measures such as these are important and aim to reduce the brunt of price spikes during a disruption, but they will not bring us closer to a permanently streamlined and more reliable fuel delivery system. That's why Congress directed EPA and the Department of Energy (DOE) in Section 1509 of EPACT of 2005 to jointly undertake a Fuel Harmonization Study in order to ascertain the effects varying fuel standards might have on issues like price, and to assess the feasibility of developing national or regional fuel standards. Indeed, EPA devoted a large portion of its Section 1541(c) Boutique Fuels Report to Congress explaining how it would approach a more "comprehensive assessment" of the impacts of boutique fuels in the Fuel Harmonization Study. This report was due to Congress by June of 2008, and Congress is still waiting.

Unfortunately, EPA and DOE never did the report, and has provided no explanation as to why it disregarded its congressional directive. Comprehensive empirical evidence assessing the give and take between reliability and price stabilization is much needed. Congress seeks to draw upon

the expertise in the different agencies by commissioning studies in cases such as these, and it is incumbent upon agencies to respond in a timely way and to follow congressional intent.

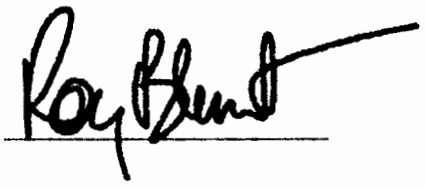
Therefore, we respectfully ask that you respond to this letter with an answer to the following questions:

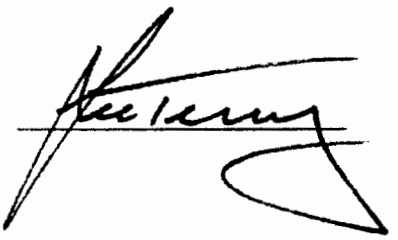
- Will EPA and DOE ever conduct the Fuel Harmonization Study that was required by Section 1509 of EPACT of 2005? If so, when can Congress expect to see the final report?
- Since the demand for oil continues to increase, and the price of gasoline continues to rise, as the country recovers from the economic recession, does EPA not see the utility in conducting a study to aid in the simplification of our fuel delivery system?

The global supply and demand factors affecting the price of oil paired with our heavy reliance on foreign sources of oil leaves us susceptible to price volatility when that oil is refined into gasoline and sold on the open market. Increasing the domestic exploration for our American energy is one important way to decrease our dependence on foreign oil and make us less vulnerable to price spikes and volatility. Another way to achieve this goal is to simplify our nation's increasingly complex gasoline supply to resolve the distribution issues that would otherwise lead to potential gasoline price spikes. We expect EPA and DOE to follow the congressional intent that was outlined in EPACT of 2005 and conduct the Fuel Harmonization Study as soon as possible, to better inform us on how the reduction of unnecessary domestic energy constraints caused by the proliferation of boutique fuel use will affect the price of gasoline.

Thank you for your consideration. We look forward to your prompt response.

Sincerely,





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 2 9 2011

OFFICE OF
AIR AND RADIATION

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of May 11, 2011, co-signed by 34 of your colleagues, to Administrator Lisa Jackson in which you express concerns over gasoline prices and discuss the relationship between gas prices and the use of different types of fuels in different localities in the U.S. The Administrator asked that I respond on her behalf.

I understand that the spike in gas prices, driven by increased global demand and compounded by unrest and supply disruptions in the Middle East, is of concern to American citizens. Clean fuel programs are not, however, the reason for this increase. Your letter notes that, in 2002, the U.S. Energy Information Administration (EIA) stated that one factor affecting gas price volatility was the increased use of different types of fuels in different localities. Since then, there have been a number of changes to clean fuel programs to address this issue. As a result, a number of reports and other studies have concluded that the refining and distribution system works efficiently to supply and distribute all types of fuels in the U.S, including fuel meeting local requirements.[1]

The number of localized clean fuel requirements has decreased since 2002. Passage of the Energy Policy Act of 2005 (EPAct) and the Energy Independence and Security Act of 2007, along with other U.S. Environmental Protection Agency Clean Air Act regulatory changes, have greatly altered the transportation fuels landscape. Collectively these changes—which include nationwide instead of regional gasoline sulfur and benzene standards, removal of federal reformulated gasoline's oxygenate requirement, widespread use of E10, and the transition to lower sulfur diesel—have resulted in the fuel supply system being more fungible today than it has been in many years. Today, state summertime fuel volatility programs represent the only remaining difference in fuel formulations for certain markets. The number of fuels is less of an issue for today's fuel markets than it has been in years past.

States' ability to adopt new clean fuel programs has been significantly curtailed. Section 1541(b) of EPAct required EPA, in consultation with the Department of Energy, to publish a list of state clean fuel programs approved as a clean air strategy in State Implementation Plans (SIPs). Publication of the list and action taken under this authority ultimately set limits on the type of fuels that various areas can be authorized to require under their state plans. The EPA published this list in December of 2006, and to date there has been no change to this listing.[2]

The Agency's authority under the Clean Air Act (Section 211)(c)(4)(C) to waive local clean fuel requirements in emergency situations has proven useful in addressing possible supply disruptions that could lead to gas price spikes that might otherwise occur when local fuel specifications inhibit the ability to supply a specific product to a specific locality.[3] When the fuel supply and distribution systems are

functioning normally, local fuel requirements do not cause gas price spikes. However, gas price spikes can occur when there is an emergency that disrupts the normal, local supply and distribution networks (e.g., a refinery supplying fuel for an area is disabled due to a hurricane or some other unforeseen reason) and local fuel requirements prevent the sale of fuel from other markets. The first significant test of this authority occurred in 2005 when Hurricane Katrina shut down a significant portion of the country's refinery capacity. As you noted in your letter, the EPA's waiver authority proved integral to the response to this massive supply disruption.

Clean fuel programs add very little to the price of gasoline. For instance, the cost to control summertime gasoline volatility for air quality purposes, including programs implemented by states, ranges from less than a penny a gallon to about 2 cents per gallon. By comparison, the EIA's April breakdown for refining costs are 69% for the cost of crude oil, 16% for refinery processing, 5% for product distribution and marketing, and 10% for federal and state taxes. The price paid by consumers at the pump, which is currently around $3.65 per gallon, reflects all these costs.

In spring 2006, President Bush established a Boutique Fuels Task Force to gather information from numerous stakeholders including state officials, refiners, public health officials and automakers. That Task Force issued a report to the President in June 2006. Following this report, in compliance with Section 1541(c) of EPAct, the EPA and the Department of Energy (DOE) submitted a report to Congress in December 2006 on the impact state fuel programs have on air quality, fuel availability, and fuel costs. The Section 1541(c) Report built upon the Task Force Report findings and described important regulatory and legislative revisions that had already or would soon change the landscape of the transportation fuels market.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,

Gina McCarthy
Assistant Administrator

---

[1] **Boutique Fuels: State and Local Clean Fuels Programs** Main Boutique Fuels Weblink: http://www.epa.gov/otaq/boutique.htm; **EPAct Section 1541(c) Boutique Fuels Report to Congress** Weblink: http://www.epa.gov/otaq/boutique/420r06901.pdf, Document Number: EPA420-R-06-901 December 2006, Authored by Office of Policy and International Affairs, Department of Energy and Office of Transportation and Air Quality, Environmental Protection Agency; **Study of Boutique Fuels & Issues Relating to Transition from Winter to Summer Gasoline** (PDF, 11 pp, 36K, EPA420-R-01-051, October 2001) Weblink: http://www.epa.gov/otaq/regs/fuels/r01051.pdf; **Study of Unique Gasoline Fuel Blends ("Boutique Fuels"), Effects on Fuel Supply and Distribution and Potential Improvements** (PDF, 105 pp, 610K, EPA420-P-01-004, October 2001) Weblink: http://www.epa.gov/otaq/regs/fuels/p01004.pdf

[2] Boutique Fuels List: http://www.epa.gov/otaq/regs/fuels/boutique-list.htm

[3] EPA Fuel Waivers Website Link: http://www.epa.gov/compliance/civil/caa/fuelwaivers

Re: New letter for CMS
Patricia Haman to: Patricia Haman 05/12/2011 12:11 PM
Cassaundra Eades, Kathy Mims

OK: here is the list of signatories:

List of signatures:

Sen. Blunt
Sen. Murkowski
Sen. Crapo
Sen. Wicker
Sen. Toomey
Sen. Kirk
Sen. Cochran
Sen. Hoeven
Sen. Barrasso

Cong. Walden
Cong. Upton
Cong. Bass
Cong. Griffith
Cong. Barton
Cong. Burgess
Cong. Blackburn
Cong. Whitfield
Cong. McMorris-Rodgers
Cong. Bono-Mack
Cong. Pompeo
Cong. Murphy
Cong. Bilbray
Cong. Gingrey
Cong. Scalise
Cong. McKinley
Cong. Guthrie
Cong. Shimkus
Cong. Rogers
Cong. Pitts
Cong. Gardner
Cong. Kinzinger
Cong. Lance
Cong. Harper
Cong. Broun
Cong. Terry

Patricia Haman
Office of Congressional and Intergovernmental Relations
202-564-2806

Patricia Haman Good Morning: Here is a new one for cms. I sh... 05/12/2011 10:20:17 AM

From: Patricia Haman/DC/USEPA/US
To: Cassaundra Eades/DC/USEPA/US@EPA, Kathy Mims/DC/USEPA/US@EPA
Date: 05/12/2011 10:20 AM
Subject: New letter for CMS

CO-4

TN-7

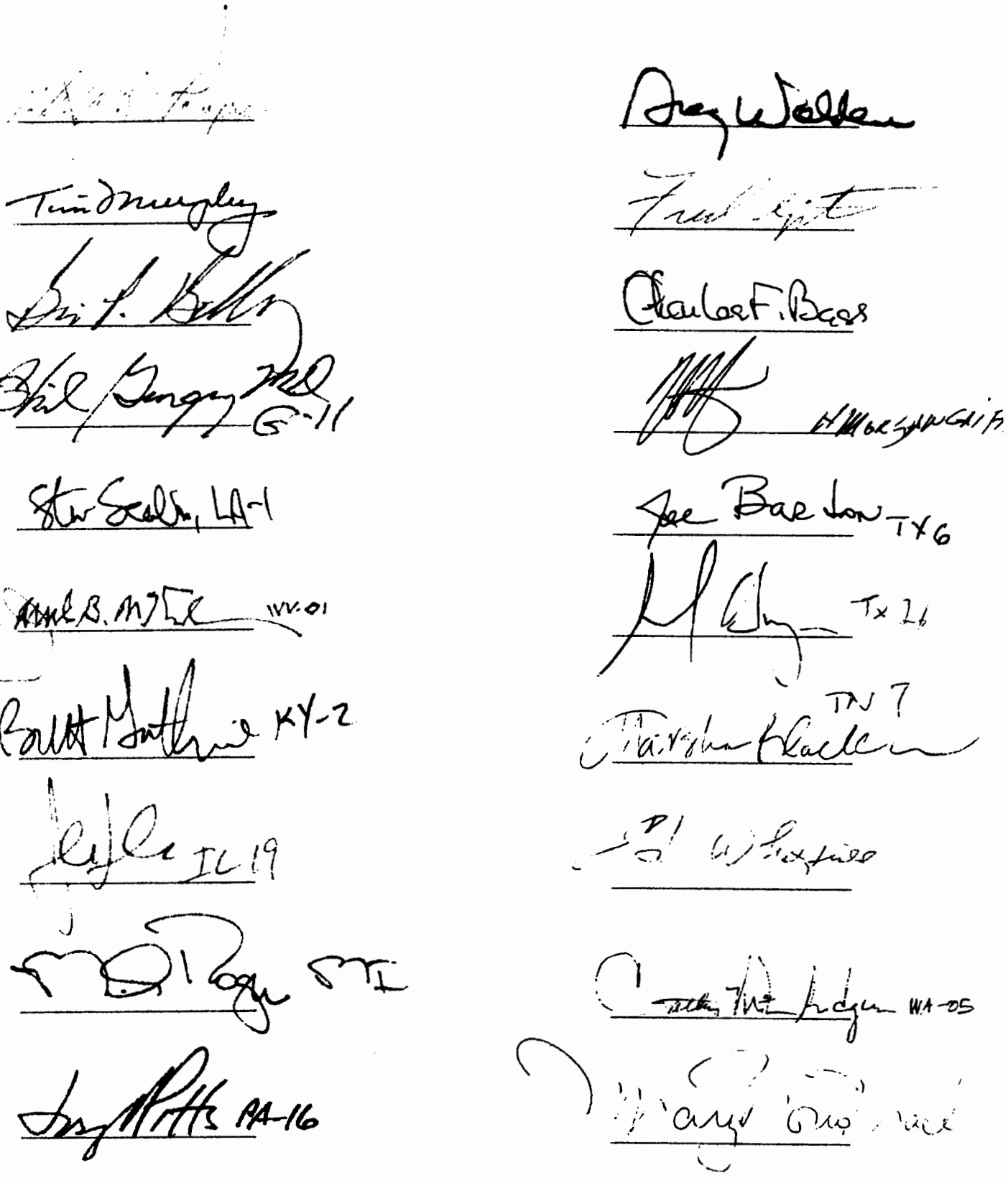
IL-11

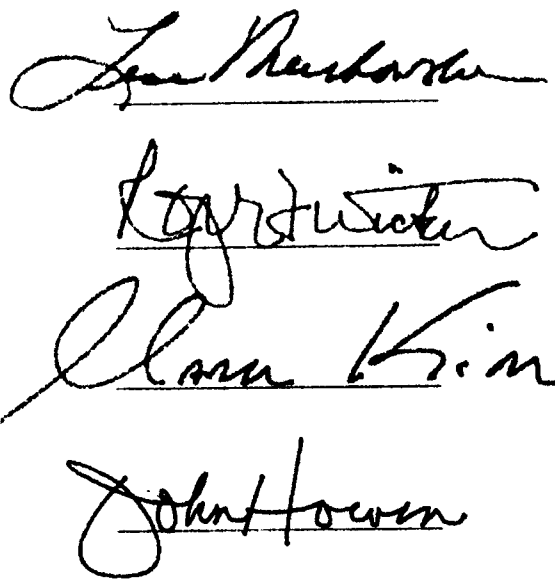
Leonard Lance NJ-7

Gregg Harper MS-3

Paul C. Broun GA-10

cc: The Honorable Steven Chu, U.S Department of Energy





AL 12-001-2866

THE WHITE HOUSE OFFICE
REFERRAL

July 24, 2012

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION COMMENTS:

ACTION REQUESTED: DIRECT REPLY W/COPY

REFERRAL COMMENTS:

DESCRIPTION OF INCOMING:

ID:	1089002
MEDIA:	EMAIL
DOCUMENT DATE:	July 19, 2012
TO:	PRESIDENT OBAMA
FROM:	THE HONORABLE SUSAN COLLINS UNITED STATES SENATE WASHINGTON, DC 20510
SUBJECT:	EXPRESSES COMMENT ON THE ENVIRONMENTAL PROTECTION AGENCY BOILER MACT RULES

COMMENTS:

PROMPT ACTION IS ESSENTIAL – IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT, ROOM 53, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500

THE WHITE HOUSE
DOCUMENT MANAGEMENT AND TRACKING WORKSHEET

DATE RECEIVED: July 23, 2012

CASE ID: 1089002

NAME OF CORRESPONDENT: THE HONORABLE SUSAN COLLINS

SUBJECT: EXPRESSES COMMENT ON THE ENVIRONMENTAL PROTECTION AGENCY BOILER MACT RULES

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION CODE	DISPOSITION DATE COMPLETED
LEGISLATIVE AFFAIRS	ROB NABORS	ORG	07/23/2012
ACTION COMMENTS:			
✓ ENVIRONMENTAL PROTECTION AGENCY		R	07/24/2012
ACTION COMMENTS:			
ACTION COMMENTS:			
ACTION COMMENTS:			
ACTION COMMENTS:			

COMMENTS: 7 ADDL SIGNEES

Scanned by ORM

MEDIA TYPE: EMAIL

USER CODE:

ACTION CODES	DISPOSITION		
	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
A = APPROPRIATE ACTION B = RESEARCH AND REPORT BACK D = DRAFT RESPONSE I = INFO COPY/NO ACT NECESSARY R = DIRECT REPLY W/ COPY ORG = ORIGINATING OFFICE	INITIALS OF SIGNER (W.H. STAFF) NRN = NO RESPONSE NEEDED OTBE = OVERTAKEN BY EVENTS	A = ANSWERED OR ACKNOWLEDGED C = CLOSED X = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590
SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT
ROOM 63, EEOB.

1089002

United States Senate

WASHINGTON, DC 20510

July 19, 2012

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Obama:

Given that the U.S. Environmental Protection Agency (EPA) has transmitted to OMB the reconsidered rules with regard to industrial boilers, known as the Boiler MACT rules, we are writing to reiterate our interest in this issue of great concern to manufacturers across the country. It has been our shared goal to ensure that the final Boiler MACT rules are achievable, affordable, and protective of public health and the environment, while preventing the loss of thousands of jobs that we can ill-afford to lose. Since the rules were first proposed, we acknowledge that significant revisions have been made. However, we continue to believe that the final rule must be strengthened to include additional compliance time to enable facilities that will be investing billions of dollars to rationally plan for the capital expenses, to clarify the fuel status of key biomass materials, and to establish achievable carbon monoxide (CO) limits for all fuels to ensure the intended benefits.

Considering the number of facilities involved and the complexity of the rules, it is necessary to provide compliance time beyond the traditionally provided three years, and we believe this is possible within the authorities provided to EPA and the President under the Clean Air Act. We request that the rules require that EPA or the states provide an extra year to comply if a facility meets reasonable criteria. We also believe that an additional year is warranted through presidential action. Additionally, the rules should clarify the status of key biomass residuals as fuels so that these materials can be used productively rather than placed into landfills with negative environmental consequences. The Boiler MACT rules should list wastewater treatment residuals as non-waste fuels, create a safe harbor or presumption for other biomass residuals, and eliminate the presumption that materials are wastes until proven otherwise. Finally, the current CO limits under the Boiler MACT rules, which are currently unachievable, should be adjusted for all fuels – biomass, coal, and oil – for both new and existing sources. These standards should be based on the capabilities of real-world boilers.

Final Boiler MACT rules that include flexibility to make the rules achievable and that are consistent with the intent of the Clean Air Act and your Executive Order 13563 to "identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends," are critical to preserving jobs in many manufacturing industries. The rules as they stand today could cost billions of dollars and thousands of jobs. We urge you to carefully consider this need for flexibility and these points as you evaluate the EPA's proposal.

Sincerely,

Susan Collins
United States Senator

Mark Pryor
United States Senator

Lamar Alexander
United States Senator

Mary Landrieu
United States Senator

Lisa Murkowski
United States Senator

Herb Kohl
United States Senator

Roy Blunt
United States Senator

Claire McCaskill
United States Senator

Copy To:

The Honorable Jack Lew, Chief of Staff, Executive Office of the President
The Honorable Cass Sunstein, Administrator, Office of Information and Regulatory
The Honorable Lisa Jackson, Administrator, Environmental Protection Agency
The Honorable Jeffrey Zients, Acting Director, Office of Management and Budget

United States Senate

WASHINGTON, DC 20510

UAL 13-000-6332

June 4, 2013

The Honorable Bob Perciasepe
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, D.C. 20460

Dear Acting Director Perciasepe:

The Environmental Protection Agency (EPA) released farm information for 80,000 livestock facilities in 30 states as the result of a Freedom of Information Act (FOIA) request from national environmental organizations. It is our understanding that the initial release of data contained personal information that was not required by the FOIA request for ten states including Arizona, Colorado, Georgia, Indiana, Illinois, Michigan, Montana, Nebraska, Ohio and Utah. This release included names and personal addresses. EPA redacted the initial data and resent the data only to realize they had again sent out personal information for Montana and Nebraska.

We are writing today to express concern regarding the sensitivity of the data that was released. Unlike most regulated facilities, farms and ranches are also homes and information regarding these facilities should be treated and released with that understanding. We also understand there are additional concerns regarding biosecurity and the safety of our food supply. It is our expectation that EPA will conduct a thorough review of their FOIA policies in relation to sensitive agriculture producer data.

Finally, we have several outstanding questions regarding the data that was released and your process.

1. When EPA proposed making similar data available last year through the National Pollutant Discharge Elimination System (NPDES) Concentrated Animal Feeding Operation (CAFO) Reporting Rule, the Department of Homeland Security and the Department of Agriculture expressed concern due to the biosecurity and producer security implications. This proposal was later withdrawn. Since these agencies have been engaged on the issue in the past, did the EPA consult with the Department of Agriculture or the Department of Homeland Security at any point throughout this process?

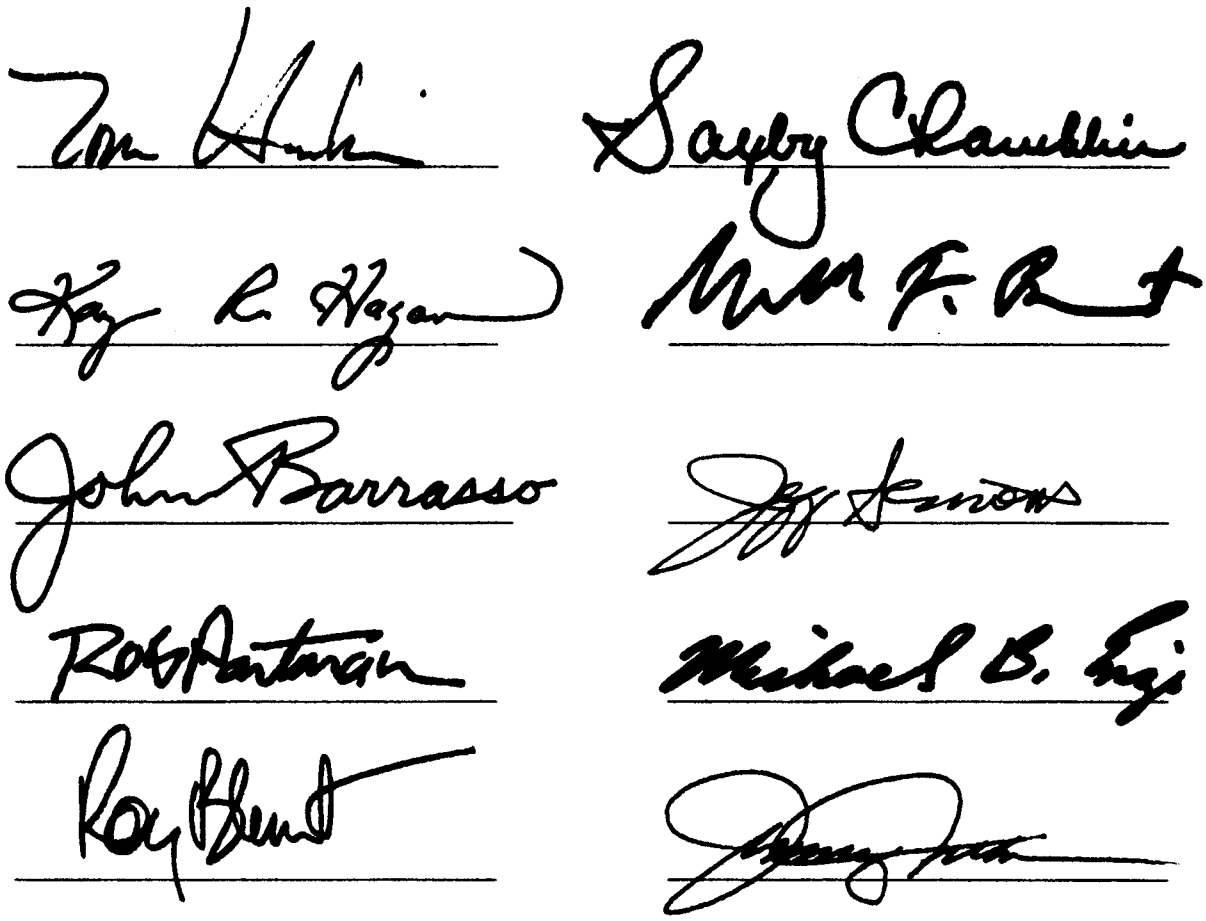
2. We understand that some of the livestock operations whose data was released did not meet the threshold to be qualified as a CAFO. Under what authority did you release this data? Did the FOIA specifically request this data? If not, why was this data released and why was this information not redacted with the other unnecessary data? Why did EPA collect data on small farmers under the CAFO threshold in the first place? What environmental concern does the EPA have that justifies collecting data on farmers who may only have a few animals? As an example, the information EPA compiled on Iowa farmers included the information on an individual who had one pig, and another

individual who had 12 horses. These are just two examples of individuals included in the 80,000 farms that have only a few animals; there are examples in other states of this type of data collection as well. What purpose is served in collecting data on people who only have a few animals?

3. What does the EPA plan to do in the future to ensure that agricultural data is protected?

Thank you for your attention to this matter, we look forward to your response.

Sincerely,



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 15 2013

OFFICE OF WATER

The Honorable Roy Blunt
United States Senate
Washington, D.C. 20510

Dear Senator Blunt:

Thank you for your letter of June 4, 2013, to the U.S. Environmental Protection Agency expressing concerns about the EPA's recent release of data on concentrated animal feeding operations pursuant to the Freedom of Information Act.

The EPA treats with utmost seriousness the importance of protecting the privacy of Americans recognized by the FOIA, the Privacy Act, and the EPA's Privacy Policy. In recognition of the concerns raised by the animal agricultural industry, the EPA engaged in an exhaustive review of the EPA's FOIA response to determine whether, as the agency had understood, the information the EPA released is publicly available, and whether any revisions to the agency's determination to release the information is warranted under the privacy exemption (Exemption 6) of the FOIA.

As a result of this comprehensive review, we have determined that, of the twenty-nine states[1] for which the EPA released information, all of the information from nineteen of the states is either available to the public on the EPA's or states' websites, is subject to mandatory disclosure under state or federal law, or does not contain data that implicated a privacy interest. The data from these nineteen states is therefore not subject to withholding under the privacy protections of FOIA Exemption 6. The EPA has determined that some personal information received from the ten remaining states[2] is subject to Exemption 6.

The EPA has thoroughly evaluated every data element from each of these ten states and concluded that personal information – i.e., personal names, phone numbers, email addresses, individual mailing addresses (as opposed to business addresses) and some notes related to personal matters – implicates a privacy interest that outweighs any public interest in disclosure.

We amended our FOIA response to redact portions of the data provided by these ten states. The redacted portions include telephone numbers, email addresses, and notations that relate to personal matters. They also include the names and addresses of individuals (as opposed to business facility names and locations, though facility names that include individuals' names have been redacted). We believe that this amended FOIA response continues to serve its intended purpose to provide basic location and other information about animal feeding operations, in order to serve the public interest of ensuring that the EPA effectively

[1] The twenty-nine states are: Alabama, Arkansas, Arizona, Colorado, Florida, Georgia, Iowa, Illinois, Indiana, Louisiana, Maryland, Maine, Michigan, Missouri, Montana, North Carolina, North Dakota, Nebraska, New Jersey, New York, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Wisconsin, and Wyoming.
[2] The ten remaining states are: Arizona, Colorado, Georgia, Indiana, Illinois, Michigan, Montana, Nebraska, Ohio, and Utah.

implements its programs to protect water quality, while addressing the privacy interests of the agricultural community.

The EPA has delivered the amended data to the FOIA requestors, and has also provided copies to representatives of the animal agricultural industry. In addition, EPA requested that the previous data releases be returned to the agency, and all original requestors subsequently complied with this request. The agency has asked agricultural stakeholder groups to report to the EPA if any activities happen on their farms that they believe directly resulted from this FOIA release.

The information that was released pursuant to the FOIA requests contained information on both AFOs and CAFOs. Though the EPA's request to states only pertained to information on permitted and unpermitted CAFOs, some states also provided information on additional animal feeding operations. Animal feeding operations are defined differently by the EPA and by each individual state. For instance, sometimes the term AFO is used to mean all livestock operations regardless of size, and sometimes it is used to mean only small operations. Similarly, sometimes the term CAFO is used to mean all livestock operations regardless of size, and sometimes it is used to mean only large operations that meet federal animal unit thresholds.

Our understanding was that the FOIA requestors were asking us for all of the releasable animal feeding operation information the agency had collected from the states regardless of how the EPA or the states would categorize it. Accordingly, the EPA gave the requestors all the releasable data the states gave the agency. One FOIA request stated "all records relating to and/or identifying sources of information about CAFOs, including the AFOs themselves, and the EPA's proposed and intended data collection process for gathering that information.[3]" Two other FOIA requests stated "all records...relating to EPA's withdrawal of the proposed NPDES CAFO Reporting Rule...," including, "any records providing factual information concerning the completeness, accuracy, and public accessibility of states CAFO information...[4]"

As your letter reflects, the EPA initially proposed a rule that would have required CAFO owners to submit information about their operations to the agency. As part of the inter-agency review process, the U.S. Departments of Homeland Security (DHS) and Agriculture (USDA) provided comments to the proposed collection rule. It is through this inter-agency process that the EPA engaged with both DHS and USDA.

The agency is working to ensure that any future FOIA requests for similar information are reviewed carefully to ensure that privacy-related information is protected to the extent required by FOIA. More specifically, key leaders in our Office of Environmental Information and FOIA experts are developing training for all agency employees, including those in the Office of Water (OW), on the agency's obligations under the FOIA and responding to FOIA requestors. The training will focus on all aspects of processing a FOIA request, including how to properly safeguard information that may be exempt from mandatory disclosures, and will become a regular practice to agency personnel.

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[3] FOIA request from Eve Gartner of Earthjustice. Dated September 11, 2012

[4] FOIA request from Jon Devine of NRDC and Karen Steuer of Pew. Dated October 24, 2012

Again, thank you for your letter. The EPA is committed to conducting its activities with the highest legal and ethical standards and in the public interest. If you have further questions, please contact me or your staff may call Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at 202-564-0255.

Sincerely,

Nancy K. Stoner
Acting Assistant Administrator

United States Senate

WASHINGTON, DC 20510

AL 13-000-8566

August 2, 2013

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator McCarthy,

We are writing to express our concern about the Environmental Protection Agency's proposed Formaldehyde Emissions Standards for Composite Wood Products Implementing and Certifying rules, published in the Federal Register on June 10, 2013.

The Formaldehyde Emissions Standards for Composite Wood Products Act was enacted to provide authority to the EPA to implement rules regarding formaldehyde emissions from composite wood panels and products. The goal of the legislation was to implement nationwide the California formaldehyde standards already in existence. The California emissions standards are currently the most stringent in the world.

Finished goods manufacturers build their products from already certified composite panels. These certified panels are then further processed within finished goods manufacturing, sealing the finished product and reducing emissions even more.

The EPA rules as proposed differ significantly from the California rule in their applicability, requirements and costs. These changes will impact over a million US manufacturing jobs. By erroneously assuming both the size of the newly regulated stakeholders group, as well as the technical feasibility of the exempted resins, the EPA failed to account for this adverse impact on jobs. The significant reduction of flexibility and increased costs for finished goods manufacturers without corresponding benefits is contrary to the policy of this Administration.

To reduce the unnecessary burdens of the rule without compromising public health and safety; the EPA staff should follow the California approach, which would eliminate redundant testing and recertifying of components by finished goods manufacturers. As EPA develops the final rule, we hope you will carefully consider these comments and focus on providing appropriate health and environmental protections to our nation's citizens without jeopardizing industries, jobs or our economy.

Thank you for your commitment to addressing this important issue.

Sincerely,

United States Senate

WASHINGTON, DC 20510

ROGER F. WICKER
United States Senator

ROY JOHNSON
United States Senator

ROY BLUNT
United States Senator

cc: Howard Shelanski, Administrator, Office of Information & Regulatory Affairs, OMB

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 2 1 2013

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

The Honorable Roy Blunt
United States Senate
Washington, DC 20510

Dear Senator Blunt:

Thank you for your letter of August 2, 2013, to Gina McCarthy, Administrator of the U.S. Environmental Protection Agency, expressing your concerns about the proposed regulations regarding formaldehyde emissions from composite wood products. As the Assistant Administrator for the Office of Chemical Safety and Pollution Prevention, the Administrator has asked me to respond to your letter.

We welcome your views as we consider comments on our proposed regulations. In response to your concerns, it is important to note that the Formaldehyde Standards for Composite Wood Products Act (Toxic Substances Control Act Title VI) departs from the California Air Resources Board's regulation in several important ways. It is true that Title VI establishes formaldehyde emission standards for hardwood plywood, particleboard and medium-density fiberboard that are identical to the emission standards in CARB's Airborne Toxics Control Measure. Nevertheless, Congress, although cognizant of the CARB exemption for laminated products, chose to include laminated products on the list of composite wood products to be regulated under TSCA Title VI. With respect to these laminated products, Congress did provide the EPA with the authority to modify the definition of laminated product and exempt some or all laminated products from the definition of hardwood plywood pursuant to a rulemaking under TSCA Title VI, which shall be promulgated "in a manner that ensures compliance with the [statutory] emission standards." The information available to the EPA did not indicate that laminated products would be in compliance with the emission standards, and therefore the agency did not propose an exemption for all laminated products from the proposed regulations. We did, however, propose to exempt laminated products that are made with compliant cores and laminated with "no-added-formaldehyde" resins because we concluded that such exemptions would be consistent with the statutory directive.

Based on comments, letters and other feedback the EPA has received since the rule was proposed, there seems to be some confusion as to whom the rule would apply. The proposed testing and certification requirements would apply only to those entities that make hardwood plywood (including non-exempt laminated products), particleboard and medium-density fiberboard. Those who manufacture finished goods from already certified hardwood plywood, particleboard, or medium-density fiberboard or exempt laminated products, and process them into finished goods by cutting, shaping or other similar activities would not be covered by the testing and certification requirements. Furthermore, retailers that simply purchase finished products and offer them for sale are not subject to the testing or certification requirement, only keeping records of their purchase of compliant products.

In the development of the proposals, the EPA engaged numerous stakeholders, including small businesses, many of which served as Small Entity Representatives providing input to the Small Business

Advocacy Review Panel for these proposed regulations. The EPA took their input, and the SBAR Panel deliberations, into account in designing the proposed exemption for laminated products.

The EPA is very sensitive to the potential impact of these requirements on the American manufacturing sector. In ongoing efforts to reach out to potentially affected stakeholders, the EPA has met and continues to meet with companies and trade associations that represent, among other members, producers of laminated products. As part of this effort, the EPA has also specifically requested data on formaldehyde emissions from laminated products in addition to seeking comments and information on the proposed definition of laminated products. In particular, the EPA is trying to understand why some manufacturers of laminated products can comply by switching to resins with no added formaldehyde, while others believe this is not a feasible alternative.

The EPA has requested public comment on all aspects of the proposed regulations, which are based on the information available at the time of proposal. The comment period for the implementing regulations has been twice extended at the request of a number of industry stakeholders and closed on October 9, 2013. The EPA will carefully consider all information it received and incorporate its findings in the final rule.

Again, thank you for your letter and I hope the information provided is helpful. If you have any further questions, please contact me or your staff may contact Mr. Sven-Erik Kaiser in the EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,

James J. Jones
Assistant Administrator